



Burlington City Council Ordinance Committee

7/25/2016

City Council Ordinance Committee

Monday, July 25, 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: Caryn Long, Michael Long, Cynthia Rubin, Jeff Beck, others who did not sign in or speak

SB called the meeting to order at 5:32 pm.

1. **Agenda:** KW moved and MT seconded to adopt the agenda as presented. Unanimous.
2. **Public Forum:** Caryn Long addressed receipt of letter from resident on Church St. and encouraged waiting until there's a model, so people can review the height. She said she was told that the reason for PlanBTV was to mend tension on the council around height.

Michael Long said he believes the draft ordinance has no connection with PlanBTV. He thinks Planning Commission's certification of that is fraudulent and just a rubber stamp.

Concluded at 5:39 pm.

3. **Minutes:** MT moved and KW seconded to adopt the minutes of July 21, 2016 with SB's corrections. Unanimous.
4. **CDO Zoning Amendment 16-14, Downtown Mixed Use Core Overlay:**

SB noted that Meagan T has the ordinance version that was submitted to Council and the version with comments from the Planning Commission on screen so that they both can be reviewed. SB sees the goal as going line by line to identify issues for the Council to review, and if the Committee favors one direction or another, it should identify that. Height and massing are clearly issues, but there are some others.

Purpose: MT asked about the educational use language, as he thought Champlain College was proposing only housing here. SB noted that it could be a training center for the hospital. MT asked to flag the issue, as he said we should not be allowing Champlain College to expand its educational use into the downtown area. Meagan T noted the idea was to cover all sorts of education, including day cares. Also, the Planning Commission thought satellite classrooms might be okay; it depends on the scale.

Areas Covered: SB would like not only to have the map, but also to have the area described in words. The boundaries need to be very clear, not just interpretation of a map. MT asked to see the delineations between different properties; SB agreed—not for the ordinance but to provide information to the public. Meagan T reviewed the different parcels included



Burlington City Council Ordinance Committee 7/25/2016

in the overlay district. KW asked about including the People's Bank site. Some commissioners felt including that site would be a logical extension; others felt that it should not and that the College St. parking garage also should not be included.

ACTION (for P&Z staff): Describe area in words. For public, delineate different properties.

MT asked about 4.4.1 and how that fit in. Meagan T explained that is a proposed amendment to a different section of the ordinance that deals with the base zoning district, the downtown mixed use zone. SB asked why this is flagged as necessary for compliance with the predevelopment agreement. Meagan T noted that the official map is also in another section of the ordinance but is included here. SB reminded folks that at the last meeting, the Committee noted, although it took no formal vote, that changes to Church St. may not belong in this amendment. Meagan T said that if the Church St. changes were not included, there would need to be changes to the current façade of the Devonwood project.

Meagan T explained that staff included the garages because they have the potential to be redeveloped for other uses and could serve as transitions from the higher buildings. These properties were included in the PDA. SB would prefer not to include those two properties. MT agrees that he doesn't want the height on those properties, but he is concerned about spot zoning if you remove two of the properties. EB noted that the City Attorney's Office would look carefully at that issue if that's the direction the Committee wants to take. SB would like to identify those as a transitional zone that would be somewhat lower height. Meagan T said they are in the downtown mixed use which allows to 105 feet. Committee generally agreed.

ACTION (for City Attorney): To confirm that removing 2 garages would not make the remaining ordinance violate spot zoning laws.

Dimensional Standards: MT said that he is concerned with the change. Meagan T explained that it is consistent with form-based code concepts to move away from bonuses and make the process more predictable. MT is concerned that we have not dealt with the affordable housing and inclusionary zoning portion of the existing ordinance's bonus requirement; he believes this developer should have to provide more affordable housing. SB noted she has heard from people involved in planning who are concerned with getting rid of bonuses as a concept.

SB noted that 14 stories, 160 feet is an issue for many people, members of the public and council. SB hasn't seen any movement from the developer to make the height lower, and she is not in favor of this height at this time. MT asked if the Ordinance Committee could make changes to what was in the PDA. EB responded the Committee could certainly make recommendations to the Council about what it thinks the Council should do. KW noted that Ordinance Committee would have to consider the impact of any changes they propose—reduction of housing units? Meagan T said there would be a reduction in the building program of some kind if the height were reduced. The Planning Commission had 4 different opinions on height and massing—one opinion was that massing could be reconsidered if height were reduced. The version from the Planning Commission shows in yellow an attempt to address those issues. Another opinion was to allow a total of 160 feet but the area to be occupied would only be 146 feet. A third opinion was to retain the current bonuses.

KW asked the developer to comment about floor to floor heights. Jesse Beck said floor to floor height is 10 feet, so reducing to 146 would eliminate two residential floors.

SB said that she thought it should be 160 feet limit, including mechanicals, and not 160 plus mechanicals. MT said that he is uncomfortable with 160 feet. KW said that is a significant loss of space, so he would not be in favor of a reduction in height. SB said 130 feet would feel a whole lot better to her. This development has important components. She is not certain that changing the massing would not work. Meagan T noted that residential might still work with more massing, but there are concerns with light and air if there is too much mass. MT said that even if someone maxed out surrounding sites, they would be 65 feet shorter, so it is important to contextualize this area.



Burlington City Council Ordinance Committee 7/25/2016

KW asked if the plan is for the Committee to vote on each item. SB said the dimensional table is the most controversial portion of the overlay district. She didn't make the 130 feet as a motion because she didn't want to push anyone, but she doesn't think they'll be in agreement. KW asked if the change in zoning passes and the TIF funding does not pass in Nov., then where are we left? Meagan T explained that if there is a public ROW, the application is automatically denied, but if the City doesn't exercise its rights, then the developer can proceed. This is an area the Planning Commission flagged for the Ordinance Committee. She also confirmed no way to link the two has yet been identified. MT asked about a Dubois & King memo that flagged a number of issues with the connectivity and what would happen if the TIF isn't approved? Meagan T said the properties could still build the development to the approved height. SB asked for confirmation that under existing zoning, if there are bonuses, right now we can't require connectivity? Meagan T agreed, saying there is a fine line between bonuses and takings. SB said we need to make the full council aware of the problem with the development's moving forward without the connections, so she asked both the City Attorney and P&Z to look at that issue.

ACTION: City Attorney and P&Z to look at ways to ensure streets/connectivity can be linked even if this specific development were not approved.

SB asked what FAR means. Meagan T explained that Floor Area Ratio means the amount of building in relation to the size of the lot. So, the proposed amendment would allow buildings 9.5 times the size of the lot. The current ordinance allows 8.8 in this district. So, FAR is connected to height and massing. The FAR ensures a buildout of the site, but requires tapering of the building to stay within the FAR. If the height is reduced, the FAR will have to be looked at. Meagan T walked the Committee through the floorplate section of the proposed dimensional standards: First 5 floors designed to achieve 100% lot coverage; then floors 6 and up taper. KW asked if the Planning Commission voted on Commissioner Montroll's proposal, and Meagan T said they did not. KW said he would like to have it more clearly framed what the trade-off would look like.

SB wondered over what time period the pervious area is calculated—that is, in what time period must the water be absorbed. Meagan T explained this fits with form-based code concepts. SB noted concerns about climate and the overheating of cities and why green spaces were removed from the Devonwood proposal. Why aren't we demanding more pervious area? Meagan T said this is the area we want the densest development, and there is still some disagreement about which green elements should be required or suggested. The Planning Commission decided not to include these elements as requirements at this time. SB asked Jesse Beck if this has been discussed at all in the design? Jesse Beck said yes, there has been a lot of discussion of green roofs, and the 10% means we will be doing some amount of green roofs. They have a lot of pros and cons that need to be discussed. In a downtown area, you're trying to maximize your footprint, so there's not a lot of ground level pervious space. Meagan T noted that one goal is to improve the streetscapes, and those improvements can include trees and greenspace in this. MT asked if other cities use 10% or something else? Meagan T said she would have to check. MT mentioned Megan Moir's opinion during form based code consideration and that it would be helpful to check with her.

ACTION: P&Z to report back about other communities and stormwater engineer's opinion about the 10% standard.

SB noted that Commissioner Lee mentioned the issue of setbacks, and that larger buildings are usually set back farther from the street so as not to be looming over folks. Meagan T said she thought the comment was primarily focused on ensuring enough sidewalk room for public participation. MT noted it's an interesting debate about how close buildings should be to curb. Meagan T noted that on Cherry St. right now, sidewalks are 5 feet at the parking garage and then 20 feet plus at LLBean, so they're variable now. MT asked if this provision would allow a recessed café space? Meagan said that yes, there is a provision for café space that could be under the second story of the building. KW noted that three form-based code members call for 15 foot sidewalks, and that is what he would support. Meagan T said typically setbacks are measured from property lines, so the added section is trying to address that there will be sufficient space for sidewalks.



Burlington City Council Ordinance Committee 7/25/2016

SB asked if this is clear that the city wants 15 feet of sidewalk, and if not, can P&Z be clearer? MT noted that it might be helpful to have some graphics for this section and floor ratios. Committee is interested in moving this section forward as a proposal.

ACTION: P&Z to create some graphics for setbacks and FAR.

SB asked about what the footnote to Occupied Build-to-Zone about outdoor cafes means. Meagan T noted it would be better to illustrate this and bring it back to the next meeting.

ACTION: P&Z to create a graphic to illustrate Occupied Build-to-Zone.

SB asked about ground floor height. Meagan T explained that it was trying to set a precedent for a comfortable ground floor height. MT noted this will interact with the glazing requirement of form-based code.

SB asked if we want the arcades section? She saw no problem with it. Meaghan T said the goal is to keep such an area from being dark. The Planning Commission discussed having the building up to the setback and then awnings or other uses. MT said given the cold climate, the use may be limited. KW noted this came from form-based code. SB asked Jesse Beck to comment. He said that a 10 foot arcade is not very deep and is a good element in the form-based code toolbox.

Urban Design Standards: Meagan T reported no comments from Planning Commission on 2A (Overall Design). MT finds the language of 2Ai relating to transition not consistent with other sections of this amendment that allow height without transition.

Commissioner. Wallace-Brodeur suggested removal of "primary and secondary" from the first sentence of façade articulation. Meagan T noted that all building frontages in this district are primary. The Committee agreed with the removal.

SB would like to see buildings have rounded corners or be able to chop off the corners. SB noted that if height is adjusted, section 2.B.iv would need to be adjusted relative to it. SB requested that P&Z illustrate subsections a & b.

ACTION: P&Z to illustrate subsections a & b of Building Height Setbacks.

SB noted that Commissioner Wallace-Brodeur suggested a change to the proposal related to change in grade along a street. The goal is for buildings to have doors and windows that are open to pedestrians—that is, a basement level may protrude above grade--and this provision limits how much will be shown. Meagan T said the grade change north to south is about 10 feet, but she has to check on east-west grade change of this area. The Committee supports this change.

ACTION: P&Z to check on east-west grade change.

MT asked about progress on the model. Meagan T reported that she is waiting to hear from the model builder and is close to final confirmation of where it will be displayed.

5. **Next Meeting:** Tomorrow night in Contois at 5:30 pm.

6. MT moved and KW seconded to adjourn. The meeting was adjourned at 7:34 pm.





Burlington City Council Ordinance Committee

7/25/2016

