



Burlington City Council Ordinance Committee 7/21/2016

City Council Ordinance Committee

Thursday, July 21, 2016

Conference Room 12, City Hall—5:30 p.m.

MINUTES

Attendance

Committee: Councilors Sharon Bushor (SB) (Chair), Max Tracy (MT) & Kurt Wright (KW) (Specially Assigned)

Other City personnel: Meagan Tuttle (MT) (PZ)

Committee Staff: Sr. Asst. City Attorney Gene Bergman (GB)

Public: Margaret Murray, Barbara Wynroth, Jack Daggitt, Eric Morrow, Cynthia Rubin, Liz Miller, Joel Baird, Tony Reddington, Caryn Long, Juno, Richard Hillyard, Emily Lee, Brian Dunkiel, Jessie Beck, Steve Goodkind, Barbara McGrew

SB convened the meeting at 5: 35 pm

1. **Agenda:** SB asked to amend the agenda to discuss the meeting format, ideas stated in Council Pres. Knodell's communication of 7/21/16, and meeting dates and times as Agenda Item 2.5, after the public forum. MT moved to approve the agenda as amended, KW 2d, and the agenda as amended passed unanimously.
1. **Public Forum:** Margaret Murray handed out copies of the ordinance. She complained that there were no copies of the ordinance handed out by the committee. She said years ago people were listened to and that is now changed. She said this change will affect the entire city and said she hasn't seen a nice building go up in years. Eric Morrow said he's a local architect. He thanked the committee for its work. He said he's been participating without the benefit of a physical model. This is a deficit and asks and hopes the committee will have access to a model. Emily Lee, a Planning Commissioner, said she's come to be of assistance. The high performance and meeting LEED Gold standards and bonding are issues which she's very proud of and the bonding will not be a big extra cost to the developer. Often developers make promises and it is important to hold their feet to the fire and she hopes the council retains it. Brian Dunkiel, attorney for BTC, said he and his team are available for assistance—he is following 3 principles in participating in this process: 1-have the principles of the development agreement reflected in the ordinance, 2-make sure the language is clear and not ambiguous 3-inform the committee if something proposed won't work. Caryn Long said it was hard for the PC to get through this ordinance and missing the model was a challenge. She said the PC had a short time to deal with many important things, i.e. light, height, form based code, etc. She said raising the height is not in the Plan BTM. Tony Reddington, said it was the 80th day since the predevelopment agreement passage. There are time constraints. These changes will last for a long time, 50 years. He understands there are physical constraints to the connections on Pine St but St. Paul is entirely different. There



Burlington City Council Ordinance Committee 7/21/2016

will need to be a slight hump but he asks that any redevelopment have a flat profile between Bank and St. Paul. Also there is a conflation between the project and the ordinance and there shouldn't be. Steve Goodkind said the predevelopment agreement has an appendix that says that the ordinance must produce the development; he calls it spot zoning. Also, height is a huge issue and an issue that affects height is parking. He pointed to the allowance for parking above the ground floor if storefront development is done and thinks that is a bad feature of the proposal. He called for all parking to be underground. He doesn't think the height is needed. Barbara McGrew said she was distressed by comments made at the last CC meeting. She takes the CC discussion as saying that the OC is hamstrung by the CC process. She asked the committee to take the time it needs to do the work. Juno said he'd been to 5 PC meetings and it's been an education on how city government works. He's dismayed at the PC's lack of attendance and feels the process is compromised by the lack of attendance by the full PC. He noted the stepping down of a commissioner for a conflict of interest. Richard Hillyard said that the stress on commissions city-wide is shared by the stress on the public. He said we should be looking for consensus here. Jessie Beck, the local architect on the BTC (mall), described his firm's history locally and offered his assistance.

2.5 Meeting format, ideas stated in Council Pres. Knodell's email of 7/21/16, and meeting dates and times

SB noted that the committee composition is changed because the chair, Chip Mason, had a conflict. She introduced the other members. SB brought up her proposed meeting schedule and noted the need for a room and said she'd prefer Contois. MT and KW agreed and it was so decided.

SB suggested that the beginning of the meeting would be for the committee's work on a section of the ordinance and then the public would comment, and then at the next meeting the committee would relook at their work and revise if desired and then the public would have a chance to comment. She noted the tight timeline.

MT said that he likes the regular process, with the public forum going first. KW can live with either. SB said she just wants the public to weigh in on what is done and she doesn't want the public weighing in the middle of the committee discussion. KW asked what the public thought: Emily Lee said the move of the forum to the end of the meeting helped the PC address concerns about the process and helped them get the work done. Suki Rubin asked if there could be 2 forums, one at the beginning and then another chance to comment later in the meeting; this was used for the form based code process. Juno thought SB's idea is a good one. He suggested members of the public could appoint spokes people. SB asked the committee and it was unanimous consensus to keep the forum at the regular time.

SB moved to the suggestion by Jane Knodell to focus on the key points and pros and cons and not go through the ordinance line by line. KW said he agrees with JK. MT said he'd like to go through it line by line; that the CC won't have the opportunity so this is the chance to do our due diligence. SB agreed with MT; she noted the short time line for the committee to do its work, and thinks the PC didn't go line by line. Emily Lee said this was a different situation than normal and they didn't go line by line. SB shared the proposed schedule of 6 meetings. Emily said she didn't think the committee would get through it in the time set.



Burlington City Council Ordinance Committee

7/21/2016

SB noted that this is setting the stage for development downtown, for this or any other developer, SB said that we need an ordinance we feel good about regardless of who develops one of the subject properties in the district. She said they need to incorporate all the comments and as they go line by line they will either get consensus or identify the points of difference. SB said they'd go line by line.

The committee agreed on the schedule, to start at 5:30 except for 8/1, starting at 6:30, all meetings to be held in Contois.

SB said this meeting is to give them focus on the task. She pointed out the materials supplied by Meagan Tuttle. MT asked when the model would be ready. SB said was told it was being made and would be ready on the 28th; she wondered if it could be present at the OC's meetings. Brian Lowe said they have a way to deliver it from Mass. where it is being made and the Mayor's office is looking for a place to display it. The library was suggested as a location. Meagan said it would be 4'x8'. That may pose a problem for getting it into a building.

MT asked for a written legal analysis of the ordinance's conformance with Plan BTV; he doesn't see one. He asked for a written legal analysis in regard to the question of spot zoning. SB noted that CA Blackwood had weighed in on spot zoning but not in writing.

1. Discussion

3.01 Comprehensive Development Ordinance (CDO) Amendment ZA #16-14, re Downtown Mixed Use Core Overlay

Meagan Tuttle described the binder of materials' contents. On the marked up version, there are staff comments that point to potential conflicts. The ordinance proposes to create a new district affecting 7 properties in the area of the overlay. There are requirements for height and massing, floor area ratios to provide for tiering, urban design standards to reflect public expectations and desires and the form based code experience. There is a change in the uses, a section on parking which changes the current ordinance by showing that parking is preferred to be underground. There is a section on form based code and green building requirements. There is a change in height and set back requirements when the building fronts on Church St.

SB asked who created the ordinance. Meagan said the PZ staff did based on the predevelopment agreement and the form based code work of the department. It is common that staff actually writes the ordinance. Plan BTV was also used, noting that the plan says this area is underused.

MT asked if the ordinance was crafted to comply with the project. Meagan said it was from the predevelopment agreement.



Burlington City Council Ordinance Committee 7/21/2016

Meagan noted the areas of PC concern:

Boundaries of the district. While the area was generally agreed to, the People's Bank and College St. Garage properties' inclusion had no consensus.

The connection of the streets: align as close as possible to the existing street layout.

Height and massing: the proposal could be appropriate, especially with the design elements included. Height could be lowered if there was a greater FAR allowed. Massing would be the same. The absolute height should be absolute, not allowing the mechanicals to increase the height. There was also a thought to leave the current height and allow increases through bonuses. Meagan noted that there was not necessarily consensus on each item. There was consensus to not change the height on the setbacks on Church St.

Community Benefits: the reincorporation of the streets was seen as very important, as was excluding development on those new ROWs.

Location of Parking structures: they were unanimous in supporting no surface parking and requiring underground parking or parking behind a structure. There was not consensus on the right to park on second stories or higher. The commission noted that there was a question of feasibility at play in the requirements they support.

Housing diversity: PC supports the Plan BTV goal of diversity downtown. There was a question as to the use of bonuses.

Urban design standards: the PC supports them but has questions about screening. Some were uncertain that the language was strong enough.

Green buildings: the PC supported this but some commissioners felt the bond could be onerous and asked that the CC consider thresholds.

Conditional uses: see the distributed materials.

Meagan noted the entire packet is on board docs under the tonight's meeting agenda.





Burlington City Council Ordinance Committee 7/21/2016

SB noted Meagan will only be here for an hour on 8/9.

SB started the line by line process. She said they'd use the marked up version in the packet.

On the purpose, SB asked about the words "about the necessity of a 'bonus'". MT agreed. The committee may come back to this.

KW noted that some of the public think this ordinance is in conflict with Plan BTV but this statement indicates it is in conformity with it. Meagan agreed, noting that the plan is a policy not an ordinance and that this ordinance reflects priorities in the master plan and Plan BTV, especially on height and density in this area. It is up to this process to spell out the details.

On sec. 4.2.1, SB asked for the map to be discussed. Meagan said this reference is intended to refer to the map and reference the state statute.

On 4.4.2, Meagan said this changes the name of the district and incorporates (h) and (i) to verbally depict what the map depicts. The intent is to create a complete street instead of just a pedestrian way or a service way, with the actual way to do it determined by engineering standards. MT asked for legal clarity as to whether or not this mandates these uses or just allows for them. Meagan said she'd check with CA Blackwood.

SB asked about the comment on Pine St.; is the PZ staff just communicating the process? Meagan said yes. SB asked if the official map delineates the boundaries by words and not just pictures or a map, Meagan said no and SB said she'd like the language spelled out.

On 4.3.2, Meagan said much of the text is in the current ordinance but the new district is added. MT asked if the definition goes across the board to all overlay districts and Meagan said yes.

On 4.4.1, Meagan said this illustrates the changes to the buildings fronting Church St. These buildings are not in the district. This change increases the height to 45' and changes the set back from a building's front line and going 10' back for every 10' up. The maximum height is just for the height on Church St. facade itself. 45' came from the form based code group's work and is thought to be consistent with what is currently there on the street to infill the gaps currently there. We currently have a range from 28' to 120'. MT wants to know the height of the current mall frontage on Church St. KW asked if this will allow increases in current heights and why we need this in regard to the overlay district. Meagan said it is to anticipate changes to the front of the mall and it is part of the PDA. MT said the mall was left out of the form based code



Burlington City Council Ordinance Committee 7/21/2016

model.

Jesse Beck said there are buildings on either side of the mall that are smaller than 45'. SB said she is not in favor of this being put in this ordinance, that variability is favored by people, and she is in favor of dealing with the mall frontage but not in this way. MT agreed and KW leans in favor of her approach and said he isn't sure how important it is to the overlay district. Meagan noted it is part of the PDA and that's why it is included.

SB noted the short time and asked if they wanted to continue. There was consensus to stop.

SB noted the forum for the next meetings will be at the beginning of the meeting, as usual.

1. **Other business. Next Meeting and Items to Review.**

SB noted that the proposed schedule for ZA 16-14 OC meetings (date/time/location): 7/25, 7/26, 8/1, 8/8, and 8/9 at 5:30 except for 8/1 at 6:30, all in Contois.

1. **Adjournment:** KW moved, MT seconded and the committee unanimously adjourned the meeting at 7:23 pm.