



Burlington City Council Ordinance Committee

5/7/2019

City Council Ordinance Committee – Tuesday May 7, 2019, Conference Room 12, City Hall

MINUTES (REVISED)

Members Present: Councilor Sharon Bushor (Acting Chair), Councilor Adam Roof, Councilor Joan Shannon

Staff Present: Nick Lopez (Assistant City Attorney), Meagan Tuttle (Planning & Zoning), Kim Sturtevant (Assistant City Attorney), David White (Planning & Zoning)

Others in Attendance: Liam Murphy, Scott Young, Joy Hastings, Peter Jones, Janice Ellis, Joel Baird, Courtney Lamdin, Mike Casey, John Caulo, Merrill Jarvis, Elisa Nelson, R. Paul Smith, Jim Turnbaugh, George Thabault, Colin Hilliard; Al Margonis

Meeting called to order at 5:34 PM.

1. Agenda

1.01 Motion to adopt/amend agenda

Motion to adopt agenda as follows: Note: Communication from JP Gauthier dated 5/1/19 re Change of Zoning Ordinance (Industrial Avenue) added on 5/1/19 at Councilor Bushor's request. Note: Communication from Bruce Seifer dated 5/1/19 re South End proposed zoning changes to allow banks and performing spaces added on 5/2/19 at Councilor Bushor's request. Note: Communication from Ben Traverse dated 5/6/19 re Concert Venues in South End added on 5/6/19. Note: Presentation Regarding ELM Amendments CCOC added on 5/7/19 per Meagan Tuttle/P & Z's request. Note: Communication from Burton Corporation dated 5/7/19 added on 5/7/19 per Meagan Tuttle/P & Z's request. Note: Communication from Debbie Landauer dated 5/7/10 added on 5/7/19 per Councilor Bushor's request.

Motion by Councilor Adam Roof, second by Councilor Joan Shannon

Final Resolution: Motion Passes

Aye: Councilor Adam Roof, Councilor Joan Shannon, Councilor Sharon Bushor

1. Public Forum

i. Public Forum



Burlington City Council Ordinance Committee 5/7/2019

No members of the public signed up to speak.

1. **Committee Discussion/Possible Action**

- i. Comprehensive Development Ordinance – Commercial Uses in the E-LM Zone, ZA #19-07

Adopted Motion: To approve the ordinance amendment to the bank, credit union use in Appendix A and the district specific regulations in section 4.4.3(d)(2) and refer the proposed ordinance amendment to the City Council for second reading, public hearing, and adoption with a recommendation of adoption.

Motion by Councilor Adam Roof, second by Councilor Joan Shannon.

Final Resolution: Motion Passes.

Aye: Councilor Adam Roof, Councilor Joan Shannon, Councilor Sharon Bushor.

Discussion: Meagan Tuttle gave a PowerPoint presentation summary of the action item (PowerPoint posted on BoardDocs). Ms. Tuttle explained that there have been a series of requests from business and property owners in the E-LM. Ms. Tuttle stated that this amendment proposal is consistent with the requests received in the last several years. Ms. Tuttle further explained that the zoning ordinance had not changed to reflect the changing nature of the businesses within the E-LM.

Meagan Tuttle further explained the guidance given by the Planning Commission. Ms. Tuttle stated that the Planning Commission was supportive of allowing a bank in the enterprise district because the use is similar to offices and other uses within the enterprise district. Ms. Tuttle further explained that the Planning Commission wanted to consider manufacturing and performing arts as separate issues.

Councilor Bushor asked a question about the status of the Champlain Parkway.

Meagan Tuttle responded that after speaking with the Department of Public Works Director, it is anticipated that construction will happen late this year and will take 2 years to complete.

Councilor Roof asked how typical or often does Ms. Tuttle receive these request and are they prioritized.





Burlington City Council Ordinance Committee

5/7/2019

Meagan Tuttle responded that these requests are received a dozen times a year from property or business owners who want to do something on property and discovers limitations. After receiving the request, Planning and Zoning staff will discuss with the applicant to discuss whether it is possible.

Councilor Roof asked when the planning commission approved the amendment proposal.

Meagan Tuttle replied that the Planning Commission first heard in October or November and then asked staff to create an amendment responsive to those requests. Ms. Tuttle stated that they referred the amendment to the City Council.

Councilor Roof asked whether the Planning Commission had met two times on the matter.

Meagan Tuttle responded yes.

Councilor Bushor proceeded to describe the procedural posture of this amendment based upon documents in the materials.

Councilor Bushor asked if there were any questions related to the presentation.

Jim Turnbaugh asked what the consideration is if the current industrial businesses decide to move or go out of business.

Meagan Tuttle responded that the amendment makes the relationship between general uses and industrial uses independent of the businesses themselves. She confirmed that if one industrial goes away, another one needs to take its place. Ms. Tuttle explained that the amendment limits general commercial/retail uses to <49%.

Elisa Nelson stated that some of the facilities are large and asked if there was consideration about limiting the square footage so general commercial/retail uses do not become too large for the district.

Meagan Tuttle responded that there are some specific square footage limitations. Ms. Tuttle explained that planning and zoning felt that the <49% put the necessary limitation.

Al Margonis asked how a performing center supports a light industrial use.



Burlington City Council Ordinance Committee

5/7/2019

Meagan Tuttle responded that the City looks at how can the use of space work together, rather than being primarily one use or another. Ms. Tuttle explained that the limitation on the square footage is the mechanism to strike that balance.

Councilor Bushor stated that the primary use will continue while generating income from the rest of the space.

Councilor Roof asked what success or failure stories did Ms. Tuttle come across that either did or did not take this approach.

Meagan Tuttle responded that most of the policy changes are relatively new for most of these districts because they are also responding to the changes. She also stated that some sort of policy that strikes a balance between uses is essential. Ms. Tuttle stated that some communities have up to 80% that can be non-industrial. She further explained that others only required an industrial presence. Ms. Tuttle further identified that others had only 20% that can be non-industrial.

[copies of the proposed ordinance amendment passed around]

Councilor Bushor read section 4.4.3 of the proposed ordinance amendment for the public.

Councilor Bushor asked if this is predominately industrial, does it make sense to be a percentage of 50/50.

Councilor Shannon stated that for a long time the thinking was that this needs to remain pure to industrial uses. Councilor Shannon explained that she previously went through the use table with residents and they agreed to allow uses that previously had not been allowed but were nonetheless occurring in the district. Councilor Shannon stated that since that point, she has seen a lot of changes happening because of the uses we allowed. Councilor Shannon explained that the concept of what was allowed, was that those auxiliary uses were to serve the residents and the employees that were there. Councilor Shannon further states that what is being talked about in this case is a much different scale. Councilor Shannon expressed concern that when you have that much floor area, you are not talking about uses that serve those residents/employees. Councilor Shannon noted that this is a substantial change that is going to change the dynamics of the neighborhood and possibly the cost of rent.

Councilor Roof stated that he appreciates the complexities and the costs and benefits associated with this proposal. Councilor Roof explained that he is weary of making decisions based upon the worst case scenario. Councilor Roof further stated that this process is to create a structure while knowing that if individual projects want certain changes, they have to go through another process.



Burlington City Council Ordinance Committee

5/7/2019

Liam Murphy stated that he represented the Maltex building. Mr. Murphy believes that a bank is the type of thing that is supportive of the businesses that are there. Mr. Murphy stated that he would like to put a bank in the Maltex building, but we currently cannot. Mr. Murphy proposed that maybe it makes sense to separate out the bank part of the ordinance if other current amendment proposals are an issue.

Scott Young stated that he represents Mascoma Bank. Mr. Young stated that the bank designs would include community rooms. Mr. Young asked that that the committee view the bank from the larger ordinance amendment discussion.

Councilor Bushor asked whether the bank was occupying the entire building.

Scott Young responded no.

Liam Murphy stated that there should never be a term in the ordinance that is not defined. Mr. Murphy further stated that if the committee is going to use words, then they should be defined. Mr. Murphy argued that new terms in the ordinance is asking for a lawsuit. Mr. Murphy proposed that if the committee were going to redo the proposal, it should be more precise.

George Thabault stated that he was a resident of Austin Drive area. Mr. Thabault indicated that he thought it was a good idea to focus on the ordinance itself rather than a single actor who may use it in the future. Mr. Thabault stated that he sees this as an attempt to give proper owners flexibility and thinks it's a good idea.

Janis Ellis asked what part of section 2(b) covers a performing arts center.

Meagan Tuttle responded that the part that covers is the next portion that "uses limited by this provision are identified in Appendix A-Use Table." Meagan Tuttle agreed that the definitions could be more specific.

Peter Jones indicated the he is in support of the amendment as it pertains to banking.

Jim Turnbaugh stated that he is in support of Councilor Shannon and her concerns about the impact facing the community.

Paul Smith stated that he viewed this as a poorly written standard and asked that the committee look through this more carefully.





Burlington City Council Ordinance Committee

5/7/2019

Elisa Nelson asked whether any of these changes account for wildlife corridors.

John Caulo stated that he is representing Burton. Mr. Caulo indicated that Burton submitted written comments. Mr. Caulo stated that he thinks this ordinance creates a balance. Mr. Caulo further stated that it might be beneficial for the committee to read the planning commission minutes.

Councilor Bushor thanked all members of the public for their comments.

Councilor Roof stated that he thought that the committee heard some reasonable concerns. Councilor Roof expressed that the ordinance may benefit from some additional definitions. Councilor Roof further stated that if that is a step that can be taken, he propose that occur. Councilor Roof expressed his desire to move forward the bank aspect at this time.

Councilor Shannon stated that she believed staff made a good case that banks are similar to office or retail. Councilor Shannon further stated that the retail aspect of banks would have an inherent limitation on square footage. Councilor Shannon said that she was not concerned about having that limitation on banks. Councilor Shannon further stated that she thinks that banks fit into the concept of supporting existing businesses and residential. Councilor Shannon expressed a desire for definitions of each of these uses.

Councilor Bushor stated that she didn't know if 49% was the appropriate measuring stick. Councilor Bushor stated that if the desire is to make it industrial, why not include a percentage geared toward industrial uses.

The Committee debated whether to split the amendment by moving forward the banking component now, and having staff bring back the remaining portions of the amendment.

Councilor Roof explained that he intended to make a motion specific only to the bank and credit use portion of the amendment.

Councilor Bushor said that she will not be supporting the motion. Councilor Bushor said that large banks should not be allowed to come to the south end. Councilor Bushor expressed that she did not want this to stay as is, but rather wants to amend it further.

Councilor Shannon asked if this was inconsistent.





Burlington City Council Ordinance Committee 5/7/2019

Meagan Tuttle replied that the only change would be the limitation to south of Home Avenue.

Councilor Roof stated that he wants to move this forward but also recognizes that we need to be thoughtful about moving things forward.

Councilor Shannon stated that she does not have any concerns about moving this forward. Councilor Shannon said that this seems pretty straightforward. Councilor Shannon further stated that by pulling back now, we are delaying this when we really don't need to.

Councilor Bushor asked whether it is known that banks are shrinking in size and that there is no concern of a big bank.

David White replied that he does not believe there is a risk for a large office presence, however, there is no restriction on this right now.

The Committee decided to split the amendment and Councilor Roof made the following motion: **To approve the ordinance amendment to the bank, credit union use in Appendix A and the district specific regulations in section 4.4.3(d)(2) and refer the proposed ordinance amendment to the City Council for second reading, public hearing, and adoption with a recommendation of adoption.**

Motion by Councilor Adam Roof, second by Councilor Joan Shannon.

Final Resolution: Motion Passes.

Aye: Councilor Adam Roof, Councilor Joan Shannon, Councilor Sharon Bushor.

Councilor Roof asked staff to clarify the language in general commercial and general retail. Councilor Roof wanted to better understanding where the 49% threshold comes from.

Councilor Shannon asked whether the committee can get information about gross floor areas of existing buildings.

Meagan Tuttle replied yes.





Burlington City Council Ordinance Committee

5/7/2019

1. Other Business

- i. Next Meeting and Items to review

The Committee set its next meeting for Tuesday, May 14, 2019, from 5pm – 6pm. The single item on the agenda is to consider the remaining portion of the amendment.

1. Adjournment

- i. Motion to Adjourn

Motion by Councilor Joan Shannon, second by Councilor Adam Roof.

Final Resolution: Motion Passes.

Aye: Councilor Joan Shannon, Councilor Adam Roof, Councilor Sharon Bushor.

The Ordinance Committee meeting adjourned at approximately 7:55 pm.

