Burlington City Council Ordinance Committee 2/2/2016

City Council Ordinance Committee

Tuesday, February 2, 2016

Conference Room 12, City Hall—5:15 p.m.

MINUTES

Attendance

Committee: Councilors Max Tracy (MT), Sharon Bushor (SB), & Chip Mason (CM) (chair).

Other City personnel: Gregg Meyer (GM) (Asst. City Attorney); David E. White (DW) (PZ Dir.), Todd Rawlings (TR) (CEDO)

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

Public: Zach Hughes, Chris Rice, Stephen Gourley, Ben Traverse, John Tashiro

CM convened the meeting at 5:22 pm

1. **Agenda:** SB moved to approve the agenda but changing the order of the items by moving the zoning amendments up in the agenda so that the substantive agenda would be as follows: Vehicles for Hire, CDO ZA #16-02, 16-03, and 16-01. MT 2d, and the agenda as amended passed unanimously.

1. **Minutes of 1/28/16:** SB moved the adoption of the minutes with the following amendment to page 4 to insert the word "not" to the 2d to last paragraph in between "to" and "be" on the second to last line of the paragraph, MT seconded, and the 1/28/16 minutes were adopted unanimously as amended.

1. **Public Forum: no one came forward to speak.**

1. **Ordinance Discussion**

4.01 Vehicles for hire, chapter 30 (taxi ordinance rewrite)

CM said there have been some changes based on the last meeting that are up on board docs. He and SB said they'd have

additional changes to suggest tonight. CM asked GM if there was a list of cab drivers that the City maintained and GM said no but that it could be created from the licensed drivers and companies and that under the proposed new ordinance, the companies would be listed but not all the drivers would be "listed" with the city.

SB asked GM to go through the changes made since the last meeting and got confirmation that her previously suggested changes were adopted. CM noted a typographical error with regard to numbering. **Action: CM moved and MT seconded to change the references to § 30-5 (c) to § 30-4 (c) on pages 6 and 10, and the motion passed unanimously.**

SB asked for and received from GM an explanation on the use of hearsay.

The committee then moved to action. **Action: CM moved and SB seconded the ordinance as has been amended back to the CC for 2d reading and adoption.** MT said he objects to the background check provisions for Uber and can't, therefore, support it, although he feels there has been good work on the ordinance.

SB thanked GM, the Taxi Board and all who worked on it. She said she has tried to create a level playing field and thinks they've done that. It also started the process of looking at what responsibilities the City needed to take on in licensing and this is a step forward in showing that the city doesn't need to do it all. CM echoed those statements. It is not just a TNC ordinance but a good overall transportation ordinance. He thanked all for where we've ended up with regard to public safety and accessibility. **The vote was 2-1 (MT opposed) to send the ordinance back to the council for 2d reading and adoption with a recommendation of adoption.**

CM opened up the discussion on the MOU with Uber. GM said the fee schedule is still being worked on but it isn't far from completion. The MOU does not need to come out of the OC, GM said. Uber is operating under an existing agreement and the new MOU can be timed to be part of the full package.

CM opened the MOU up for comments. SB said she previously noted that she was concerned about the check on drivers driving in the preceding month and that Uber promised that would be looking at her concern. Zach Hughes said they did look at it and the draft was extended to 3 months and Uber has no objection to that. SB said there is still a concern about the Uber drivers and if 25 checks is enough. She said that without knowing the total number of drivers you can't tell if 25 background checks is enough. She knows they have said that this is in line with what other communities are doing but what other communities are doing is only one piece of information she considers.

MT thinks the system doesn't enhance transparency and so he does not support it. MT asked Zach Hughes if he'd heard of a case in So. Carolina where Uber missed a conviction on a background check, allowed that person to drive, and then the person committed an assault. Zach said he had not.

CM said that while he knows the number of Uber drivers is considered proprietary he was looking for a range to allow for the number 25 to be put in context. Zach said he'd bring the point back to Uber. GM said the system will have a screen shot so the context would be provided but that is in the future. CM requested that the range be provided to the council, even if it is just for comparable cities, and Zach reiterated that he will look into it.

CM closed the taxi ordinance discussion.

4.02 Comprehensive Development Ordinance (CDO) Amendment #16-02, mobile home parks

CM asked DW to explain the proposed amendment. DW said the amendment came from the Planning Commission unanimously. It comes as a result of the Farrington Mobile home park sale. The current CDO does not have provisions for mobile homes. Mobile homes were rendered non-conforming by the revision of the CDO in 2000 and this amendment is meant to correct that; it is also to allow the park to subdivide and to clarify the housing replacement requirement when a home is removed.

SB is fully supportive of the amendment. On § 5.4.12 (a) (2) & (5), it says the setback is 20 feet but the space between homes is 10 feet and she asked DW to explain. DW said that the 20 feet setback is for the boundary of the park. On § 5.4.12 (b)(3), SB asked why wouldn't it be 10 feet. DW said that it would be applicable to existing non-conforming parks and the proposed amendment comes directly from the state's model ordinance to ensure that parks are retained as an affordable housing option. SB asked if module homes are mobile homes and DW said no because mobile homes need to come in on a chassis. DW said we want to encourage modular homes and are thinking about tweaks to the ordinance in the future on that.

SB looked at the definition of mobile homes and asked if we'd allow mobile homes in the Intervale. DW said we can't treat mobile homes differently from other types of homes.

Todd Rawlings, CEDO, suggested that the lot coverage (50%) severely limits the coop's ability to improve the park. He proposed to raise to the coverage 60%. DW said he just discussed it for the first time last week but doesn't have a problem with increasing it by 10%.

Action: MT moved and CM seconded the amendment to increase the coverage from 50% to 60% in § 5.4.12(a)(3). SB said she didn't think this had been reviewed by residents and looked for an understanding as to what the residents support. CM asked Todd to solicit resident comment and GB suggested that happen in front of the Planning Commission to have that body hear it so their reaction would be recorded in the report to the CC on the change. GB also suggested that people come to the Public Hearing (PH) in front of the council. The motion passed unanimously.

Action: SB moved to adopt the amended ZA 16-02 and refer back to CC for 2d reading and PH and give notice to PC of the change, MT 2d and the motion passed unanimously.

4.03 Comprehensive Development Ordinance Amendment #16-03 App A-Use Table-grocery in enterprise-light manufacturing

CM asked DW to explain the proposed amendment. CM introduced comments given in the south end and asked that they be included in the file. DW said the committee is being asked to change the zoning to allow a grocery store less than 30,000 sf into the Enterprise Zone as a conditional use. There has been a lot of discussion on this. If it is approved, then there will be a conditional use hearing process to deal with what is being proposed at the time.

CM said parking and traffic will be dealt with then. CM said traffic and parking will be a concern but the process should be able to take care of it. Traffic studies would be done. CM noted that anything that would replace the salt sheds would also have an impact. SB noted the Dec. 21, 2015 communication by DW discussing the size limitation and the proliferation of these types of uses. DW said they don't want a lot of grocery stores in the district; there are many uses and types of areas within the zone in which types of uses can fit. Grocery stores can fit in some places within the zone and not others. SB asked if more than one grocery store would be able to be accommodated without it getting out of control and there being a proliferation. DW said there could be other stores there but we don't want this use to so dominate the entire zone.

Steve Gourley has lived in area since 1992. He said there are 3 grocery stores in the area already and asked why do we need another. The traffic is so bad now. It is going to get worse. The traffic will be dumped into the neighborhood. Wouldn't the space be better used for something else? CM asked DW what other uses would be allowed under this proposal. Steve Gourley asked if City Market's project could be contingent on the development of the Champlain Parkway.

SB said she'd heard the concerns on traffic too and asked if CM felt that the proposal protects the residents enough. DW said that the other large uses that would be allowed right now are building supply, garden supply, auto sales and repairs. CM said the site is currently underused.

Ben Travers, lives on corner of Home and Pine. There are serious current traffic concerns right now and this will make it worse. He acknowledged that he is a City Market member and would use it if it is developed but his concern is good law and he doesn't think that the safety net of the DRB process should be relied on. This area is a very small sliver of the enterprise zone and it looks like it was selected just for this store. He asked if this area was studied for the appropriateness of this use; don't consider zoning changes just because businesses target that particular area. Did the PC identify why this area is best suited for this use?

SB asked DW if Plan BTV contemplated other zoning changes for other protections against big retail. DW said yes, the PC is working on changes to the plan. Again, there are different areas with different characters throughout the zone. The

north end of the zone has the artist zone. There is another area that has a lot of surface parking that could be good for innovation activities. On Pine and Flynn you have mixed use, higher end residential and it lends itself for more neighborhood activities; this is why the cap was put in to preserve space for other things.

Bill Keogh, south end resident, supports the change to allow City Market to locate in the proposed area. The salt sheds currently there are the lowest and least productive use. City Market would enhance the neighborhood and is a locally owned store that gives back to the city. The area is a place that could use the change.

John Tashiro, City Market GM, said that at the end of the day, the coop is mission driven to give back to the community. 70% of the sales are to members and, therefore, is considered like a non-profit. They are engaging with the south end community and will conduct traffic studies. They are looking at meeting spaces for the community, over 75 bike parking spaces, and a teaching kitchen. They hope the location of the coop there would improve the area over the salt sheds. They've looked at multiple areas in the south end. The salt shed is owned by the Vermont Railroad and they are looking to sell and they'd like to sell to a community oriented organization. If the zoning is changed, the coop would engage.

MT said that if the Champlain Parkway is completed it may increase traffic congestion in the downtown and would make it harder for south end members to get to the existing City Market. If we don't do the zoning change it could be a problem for south end residents of the city who are coop members. That's why he supports this and we should be rethinking the way we look at this area.

Action: MT moved approval of ZA #16-03 to refer back to the council for second reading, PH and adoption. SB seconded. CM said he agrees and committed to staying on top of the traffic issues as the area develops. The motion passed unanimously.

4.04 Comprehensive Development Ordinance Amendment # 16-01, Thresholds for major impact review

CM decided to postpone action given the time. SB asked DW to provide the public comments received on this ordinance at the next meeting.

1. **Other business. The next meeting was set for Feb. 23 at 5:15 to discuss ZA 16-01, the Mask and Fire fee ordinance amendments.**

Adjournment: MT, SB adjourned the meeting at 7:00 pm.