



Burlington City Council Ordinance Committee

1/25/2017

City Council Ordinance Committee

Wednesday, January 25, 2017

Conference Room 12, City Hall

MINUTES

Present: Chair Chip Mason (CM), Sharon Bushor (SB), Max Tracy (MT)

Absent: None

Other City Staff: Gene Bergman (GB) (Staff Attorney), Scott Gustin (SG) (PZ), Kim Sturtevant (KS) (Staff Attorney)

Public: Joel Rippa, Martha Lang, Lani Ravin, Liam Murphy, Nan Reid, Frank von Turkovich

CM called the meeting to order at 5:05pm.

1.01 Agenda: SB moved the agenda, MT seconded and it was adopted unanimously.

2.01 Public Forum: Lani Ravin (UVM) submitted a letter re Fletcher Place and said UVM objects to having 50 Fletcher Place rezoned to Residential Medium even though they have a residential property there. They don't want to build a large building there but want it maintained as part of the Institutional zone to not limit their options on the rest of the Trinity Campus parcel. UVM wants to keep zoning on Fletcher Place the same as the zoning for Trinity Campus. Nan Reid (49 Fletcher Place) said her property has an acre of ravine land and is planning to sell that to Frank von Turkovich. When she bought her property, it was Institutional and doesn't mind it staying Institutional if the ravine parcel is redrawn. Martha Lang lives on Colchester Ave and owns property on Fletcher Place. She says 2 of her properties are on Colchester Ave.; she wants the amendment to be named the Fletcher Place/Colchester Ave. rezoning. She asked when the proposal was brought to the NPA and said she felt blindsided. She says it will decrease her property value by hundreds of thousands of dollars if it is rezoned. She opposes the change.

3.01 Approval of OC Minutes of 1/4/17: SB moved the Jan. 4, 2017 minutes. MT 2d and they were approved unanimously.

4.01 CDO Zoning Amendment 16-11, Enforcement Period of Limitations

CM asked KS to walk through the marked up document. KS said the document was created after a meeting with Liam Murphy, Jeremy Farkas, Scott Gustin and herself. She said there are policy questions left unresolved that are identified in the document. Liam handed out a document with follow up proposed changes highlighted. CM asked them to focus on policy questions, starting with line 30.

KS said that the policy question with regard to records involves verification, specifically complaints that have not been verified or acted on. CM wondered what the issue with verification is about and KS said the question is what documents would be used as evidence of the city's knowledge or that the City should have known a violation existed. KS's language excludes unverified complaints. CM asked what verification is; KS explained that in the past complaints of violation would just be sent in without the enforcement people doing any verification or keeping any record. She said now complaints have a paper trail. Liam Murphy said he is trying to be sure to include the rental registration form and zoning application forms as evidence so if information is on those forms, then the information should have been known to the city.



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MT noted that SeeClickFix is a new tool and wondered if the Code Office verification would count as a document giving the City knowledge. KS said it does give the City knowledge and would be a document for this purpose.

SB said the CA's office should be added to the list; KS doesn't oppose that. SB said she's happy that SeeClickFix would be considered as a document that would give knowledge of a condition to the City. SB said she was surprised that "verification" was not defined. Liam said that was the point, that if you have verification, then the purpose of the amendment is lost since if the violation is verified, then the city is going to take action. SB said she doesn't like the "should have known" language because it allows things that shouldn't be allowed. CM said it is a standard legal concept.

CM asked KS if she would agree with Liam on the use of the word "or" on line 31. KS said that without the "verification" that would be a problem.

GB pointed out the need to make line 26 match line 11. GB also said that he thinks documents submitted on city official forms would be ok, as Liam suggests, because the real issue is the weight to place on a particular record.

On line 42 notice, SB said she understands that only 5 or so of these circumstance exist per year so she really feels notice to abutters should be required. SG said that if so, then these decisions should go to the DRB to remove them from the administrative process entirely. SB said that she can agree to that. CM said that it seems too onerous. Liam suggested that the administrative decision be sent to abutters and if they want, they can appeal the decision to the DRB. MT said he doesn't feel strongly but questions to what end the notice is given and what status the abutter would have. KS suggested that an applicant provide notice to abutters stating that the application has been submitted. SB wondered what the people notified would do with that. SG said that the public input is imperfect in the administrative process and gave timing examples where a decision could be made before the abutter made an oppositional comment or provided contrary evidence. MT said he doesn't want a process that informs people but doesn't let them do anything. CM likes the idea of informing neighbors of the decision. MT may agree with CM. CM asked that the amendment be amended to provide notice to abutters of the decision and the right to appeal.

CM asked about the 90 v. 180 day point by Liam on line 59. Liam said 90 days is too short a period of time. KS said 90 days is already in the zoning ordinance and reminded them that these are violations. Liam said repairs can take time to make. SB asked if the time was extended whether or not it would open up a problem. KS said the goal is to phase out non-conformities and that these are not even legal. CM asked how the ordinance matches the state statute. KS said the statute calls for continuousness. SG said they need a hard date. Liam said the issue comes up in the sale of the property and 180 days is more reasonable time frame. MT said he'd like 180 days without an extension. SB said she can go with the 180 days and adding the offering the property for sale or rent language and eliminate the extension. CM would like to allow extensions.

Moving to line 76, KS said the question is whether to specifically add the reference to 24 VSA s. 4470(b). CM suggest to leave it as is. MT agreed.

Moving to line 80, Liam said this is to focus on the fixing of just the health and safety violations and not all health and safety violations in the building. KS said the Planning Commission feels the whole building should be brought into compliance. MT and SB agreed. Liam said that is a disincentive to doing anything. CM said this comes up in connection with a sale usually. Liam said full compliance is impossible but he's ok with fixing all identified violations. No action to amend was made.

Action: SB moved to amend the proposal as follows: make line 26 consistent with line 11; add City Attorney's Office to line 24; insert Liam's proposal (big box) to line 30; add the notice to abutters of the administrative decision to stabilize to lines 41-42; amend lines 59-69 to make a hard 180 day discontinuance provision with no extension; and make all other changes in red in KS's version. MT seconded. The committee unanimously approved the amendment for consideration of the entire ordinance as newly amended at its next committee meeting.



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MT had to leave at 6:50 pm.

4.02 CDO Zoning Amendment 16-12, Rezone Fletcher Place to Residential Medium

CM asked SG to explain. SG said it amounts to a change of zoning down to Colchester Ave. except for one property. SG said that Frank von Turkovich had requested a lot adjustment at the same time the PC endorsed the rezoning. The effect of the lot adjustment on the rezoning proposal is to more closely follow the property lines. SB asked if the rezoning is still on the table and SG said yes but the map would need to be amended to follow the new lines. SB explained the history of the line drawing for the rezoning.

SB listed choices: adopt the map and bifurcate a property that was Institutional or rezone to follow the property boundaries, now adjusted (all but UVM had agreed to the second choice). She said it has been a long process to get this change, since the rewrite in 2009 when it was acknowledged to be an item to work on after the rewrite was completed. The proposed change started with RL and now is RM and is intended to reflect the surrounding character of the street. This would not increase the number of units allowed. SG agreed that density and use doesn't change except for the prohibition of a trade or professional school but it does change the intensity of development allowed. He thinks the boundary line adjustment eliminates that.

CM asked why the rewrite didn't deal with it. SB said it was to be dealt with after the rewrite. GB noted that the rewrite took a very long time as it was and there were many things that were decided to be put on hold to get the basic document passed. Lani said that UVM wanted to look at Trinity campus as part of the rewrite but was told it would take too long so it should wait. UVM asks that this is not done in isolation.

CM said that this street has been Institutional zone for 20 years or more and wondered what could not be done if it were rezoned. SG listed uses. Lani said that if there's a rezoning of Fletcher Place, then the RM district line will impact the redevelopment of Trinity campus. UVM does not want that. CM asked if the current residential uses are allowed in the Institutional zone. SG said multifamily is a conditional use in the Institutional zone and permitted in the RM.

Frank von Turkovich said the zoning change will work for his project without causing harm. It'd work for Nan Reid as well. He doesn't mind leaving 50 Fletcher Place in the Institutional zone.

Martha said she is ok if it is RM and not RL. It would work for her in protecting her investment.

SB said she appreciates UVM position but she doesn't agree with it. CM asked SB if there will be more opposition now that the boundary has been adjusted. She thinks people might feel it doesn't go far enough but hopefully will be satisfied. SB thinks it is a protection of these single family homes nonetheless.

Action: CM said this should come up at the next meeting when MT can be present.

5.01 Other Business: Next Meeting & Items to Review

CM said the next meeting would be 15th of Feb. at 5:30 pm. to finish 16-11 and 16-12.

6.01 Adjournment: the meeting was unanimously adjourned at 7:22pm.

