

In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Wednesday, October 23, 2019, at 6:00 pm, Council President Dave Rollo presided over a Special Session of the Common Council.	COMMON COUNCIL SPECIAL SESSION October 23, 2019
Councilmembers present: Allison Chopra, Dorothy Granger, Isabel Piedmont-Smith, Dave Rollo, Andy Ruff, Susan Sandberg, Jim Sims, Chris Sturbaum, Stephen Volan Councilmembers absent: none	ROLL CALL [6:02 pm]
Council President Dave Rollo summarized the agenda.	AGENDA SUMMATION [6:02 pm]
Dan Sherman, Council Attorney, reviewed the upcoming schedule.	COUNCIL SCHEDULE
Rollo reconvened consideration of <u>Ordinance 19-24</u> .	<u>ORDINANCE 19-24</u> TO REPEAL AND REPLACE TITLE 20 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED, "UNIFIED DEVELOPMENT ORDINANCE
Piedmont-Smith moved and it was seconded to continue council discussion of Chapter 3 of the Unified Development Ordinance (UDO). The motion received a roll call vote of Ayes: 4, Nays: 4 (Chopra, Volan, Sims, Sandberg), Abstain: 0 (Granger out of the room). FAILED.	Vote to Continue Council Discussion of Chapter 3 [6:05 pm]
Scott Robinson, Assistant Director of Planning and Transportation, followed up on council questions from the previous meeting on October 22, 2019. Michael Rouker, City Attorney, provided information about the conditional uses related to methadone clinics and opioid rehabilitation clinics. Robinson explained the number of conditional uses that the staff reviewed. He said that from 2016 to 2018, there were 25 conditional use requests, of which 22 were approved. Robinson provided more clarifying details, like standards that needed to be met, city services, building envelope on lot size, owner occupancy, and density and types of housing within the city.	
Sturbaum asked if hearing officers were included in the count of conditional use. Robinson confirmed that was correct, and clarified that staff met with community members that ended up not applying for the permit.	Council discussion:
Volan asked if residents in buildings larger than four units could not get a residential permit. Robinson confirmed that was correct.	
Rollo asked if data about owner occupancy and rentals was broken down by neighborhood. Robinson stated that staff maintained a spreadsheet based on homestead exemption.	

Robinson presented Chapter 4: Development Standards & Incentives of the proposed UDO.

Sturbaum asked about structure heights.

Robinson confirmed that one could get 24 [feet], but that there were options for an additional half story.

Sturbaum asked about back-out parking, and if it applied across the board.

Robinson clarified that it was for commercial property, and was not for street parking, so one would not be backing up into traffic.

Sturbaum also asked about materials for mixed-use and non-residential.

Jackie Scanlan, Development Services Manager, explained the materials that could be used to meet the requirements.

Sandberg asked about the payment in lieu, how it was calculated, and about city transparency regarding this issue.

Robinson confirmed that staff was working on developing the calculation and that the Plan Commission included a methodology for staff to consider. Robinson explained that the Housing and Neighborhood Development (HAND) Department reported on how the money was spent.

Volan asked how payment in lieu was calculated if the affordable housing was not on the site.

Robinson explained the calculation, rate, and criteria, and that it was based on the number of units.

Terri Porter, Director of Planning and Transportation, stated that the payment in lieu was still a work in progress, and it was not written yet.

Piedmont-Smith asked about solar panels, growing food, and soil quality restrictions.

Robinson explained that considerations would only apply if the food was to be sold.

Piedmont-Smith requested that language be added to the UDO.

Piedmont-Smith asked about screening around solar panels.

Scanlan stated that there had been feedback from the community about not wanting to see a neighbor's solar panels.

Rollo asked about the longevity of affordable housing.

Robinson stated it was permanent.

Rollo asked how the list of plant species was derived.

Robinson stated the list was compiled with information from the Tree Commission, Environmental Commission, and staff review.

Rollo asked for how long the city inspected areas to ensure that desired plants were planted, and said that his question was due to past issues with the desired plants being replaced at a later date.

Scanlan stated that the current code required that the desired plants be there in perpetuity and that staff was working on a long-term inspection plan.

Rollo asked if there were requirements against a monoculture.

Scanlan explained that there was a maximum percentage per species and that she would verify the information for the council.

Granger asked if the city could let nurseries know of the desired species list.

Scanlan stated that, once the UDO was approved, city staff would reach out to local/regional businesses about the approved list.

Presentation, Discussion, and Public Comment on Chapter 4: Development Standards & Incentives

Council discussion:

Sturbaum asked about plexes in core neighborhoods and the related parking. He questioned if the required parking, that met the criteria, would overrule the concerns of the neighbors.

Scanlan stated that the Board of Zoning Appeals (BZA) would be able to comment on that and that the BZA could deny the conditional use request based on the Accessory Dwelling Unit's (ADU) requirement to not negatively affect the neighborhood.

Presentation, Discussion, and
Public Comment on Chapter 4:
Development Standards &
Incentives (*cont'd*)

Piedmont-Smith asked about the flood plain language in the UDO, and why new construction would be allowed in a flood plain.

Scanlan clarified that it was modeled off of the state, in an attempt to have municipalities have similar regulations. Scanlan explained that she did not believe the city was obligated to allow that development.

Rouker stated that he would investigate and let the council know.

Piedmont-Smith asked if gravel was considered to be an improved surface.

Scanlan stated that it counted as an impervious surface and explained why.

Volan asked about affordable housing, height, and mass, and if there was a limit on height.

Robinson stated that the standards were minimums and that developers could do 100% affordability.

Rollo asked about the incentives for affordable housing, and if they were evidence-based.

Robinson confirmed that they were.

Sturbaum asked about fencing and referenced two locations that were restricted from building a fence.

Scanlan stated that staff could follow up, with options, on the two locations Sturbaum referenced.

Sturbaum asked about historical buildings and if contributing buildings were intentionally left out, which represented 90% of historical buildings.

Scanlan clarified that it was mainly outstanding and notable buildings that had been included, to ensure their protection.

Sturbaum asked if neighborhood meeting requirements were eliminated.

Scanlan stated that staff would check on that requirement because the practice had been to always contact the neighborhood association, though it was not currently codified.

Kate Rosenbarger spoke about parking minimums and curb cuts and read from "Walkable City Rules" by Jeff Speck.

Public comment:

Peter Dorfman asked about codifying what could be considered to be a hardship for neighbors objecting to conditional use structures.

Michelle Henderson discussed parking and narrow streets in her neighborhood.

Jean Simonian asked about the affordable housing incentives, and if the "in perpetuity" requirements remained after a transfer of ownership.

Andrew Guenther, Chair of the Environmental Commission, spoke about amendments by the commission.

Sandy Clothier spoke about affordable housing, incentives, and ADUs.

Volan asked about the levels of affordability, and what defined affordable housing.

Porter explained that the rates were not in the UDO because they change yearly. She said that for tax credit projects with federal dollars, the rent amount would be approved by Housing and Urban Development (HUD).

Volan stated that there were different types of low-income levels and requested that list from staff. Volan asked about conditional use objections.

Porter stated that she did not have an answer at the time.

Robinson stated that the reason staff was targeting certain ranges of affordability was to cover those that were not eligible for federal dollars.

Sturbaum commented on development standards, incentives, and variations of texture and color, and asked if an architect could have a waiver on that requirement.

Scanlan stated that she would verify that and let the council know.

Piedmont-Smith questioned why the driveway width restriction in R3 was not applied in other districts.

Scanlan stated that that was a carryover from the current UDO.

Piedmont-Smith asked about open space requirements for the first floor, and if there could be a mechanism to prevent having just glass and stairs on the first floor, which did not contribute to pedestrian value at the street level.

Scanlan stated that she would verify, but that currently those buildings were approved via a variance.

Robinson explained that the new UDO loosened the first-floor commercial requirement which was an issue for some of the buildings. He confirmed that the new UDO made it more flexible for the first floor to not require non-residential only.

Granger asked if it was now allowed to build in a floodplain.

Scanlan believed it was not a new allowance but would double-check.

Sandberg asked if universal designs could be a part of the incentives for builders, to accommodate first-floor needs, like wheelchair accessibility.

Robinson replied that there had been discussions about that with the consultants, but that universal design standards were applied through the building code. He explained that they addressed things like building height, door widths, and countertop heights. Robinson stated that it was challenging to apply through zoning.

Sandberg asked if there was any language that better addressed universal designs, on behalf of people with disabilities, in new structures.

Robinson explained that there was language addressing that concern.

Sandberg asked if things in perpetuity and affordable housing were still continued if the building was sold.

Robinson confirmed that was correct.

Presentation, Discussion, and Public Comment on Chapter 4: Development Standards & Incentives (*cont'd*)

Council discussion:

Rollo asked if Scanlan had an answer to an earlier question regarding flood plains.

Scanlan summarized the current code regarding flood plains, and also what would be changed pertaining to flood plain construction in the new UDO. Scanlan stated that it would be less restrictive.

Presentation, Discussion, and
Public Comment on Chapter 4:
Development Standards &
Incentives (*cont'd*)

Rollo asked about Rosenbarger's question about minimum parking standards that were required.

Robinson explained that it was a balancing act and that the standards were lowered. Robinson stated that the requirements were fairly low and progressive compared to other communities.

Rollo asked if the in perpetuity requirements for affordable housing were in the deed of the property and how they would be enforced.

Robinson stated that it was part of the recordable commitment and that he would double-check on the language.

Sturbaum commented on Peter Calthorpe, a founder of New Urbanism, and read from one of his books. Sturbaum stated that balance was what was needed, as well as knowing, loving, and caring for the city too.

Volan stated that the cities that were treasured were the most compact and the most efficient for pedestrians. Volan commented that existing parking on the existing property would remain and that one solution was neighborhood parking zones. Volan also commented on on-street use, and the ability of fire trucks to be able to drive through narrow streets. Volan also asked staff to include area median income in the definitions and to clarify the reference in the UDO to HUD. Volan stated that he would also work with staff to better understand the proposed incentives.

Piedmont-Smith commented on climate change and global warming and stated that a new paradigm was needed and that single-family zoning was not sustainable. She explained that people could still love their neighborhood, but that there would be nothing left to love if there were not drastic changes to the way people lived. Piedmont-Smith described the impacts of climate change in Bloomington, such as climate change refugees, scarce food, high gas prices, and local necessity. Piedmont-Smith also stated that she believed it was irresponsible to allow building on floodplains, to make it more difficult to grow local food and have solar panels, and that walkability was important.

Rollo expressed agreement with Piedmont-Smith and Sturbaum. He stated that there was a place for different housing types, and that adaptation could occur with density increases but without sacrificing an already built environment.

Sturbaum stated that core neighborhoods were built before there were automobiles and that they would be relevant in 10 years.

Volan commented on automobile parking requirements.

Ruff agreed that people were facing a radically different future and way of living forced by environmental change and that it would have social and economic impacts too. Ruff commented on people living in cities and urban areas and local food production. Ruff explained that he thought people would re-inhabit the countryside and grow more local food.

Robinson presented Chapter 5: Subdivision Standards of the proposed UDO.

Presentation, Discussion, and Public Comment on Chapter 5: Subdivision Standards

Volan asked if it was feasible for someone to build a duplex and make it two separately owned units, under Bloomington or Indiana code.

Council discussion:

Scanlan stated that was currently used and allowed.

Volan asked if someone wanted to build a plex, to make it a condominium that could be separately owned, was allowed.

Scanlan confirmed that was correct.

Volan asked if a covenant could be implemented pertaining to ownership.

Rouker stated that staff was looking at ownership restrictions, and would be doing a more in-depth study.

Chopra asked if there were proposed amendments during the Plan Commission meeting discussion on Chapter 5.

Robinson stated that he was not aware of any amendments.

Sturbaum asked about restrictions, such as firewalls, on converting an old house into a condominium.

Scanlan explained that an issue like a firewall would come up during the remodel of an old house, and stated that she would verify more information.

Sturbaum asked about subdividing lots, and if that was addressed now via lot size.

Scanlan stated that it was still required to have frontage, and provided an example.

Sturbaum asked if a reduction in lot size made it easier to subdivide and if that was intentional.

Robinson clarified that had been an amendment handled by the Plan Commission and that the intent was to lower lot size and cost. Robinson provided examples of small lot sizes in Bloomington.

Sturbaum asked if that was a good way to increase density and respect ownership.

Robinsons said that it could increase density, depending on the characteristics of the lot.

Piedmont-Smith asked about the enforcement mechanism for the maintenance of easements.

Scanlan responded that it was similar to other site plan requirements and that if it was done through a subdivision process, then staff ensured it was installed and maintained properly while construction was happening. Scanlan stated that after that time period, it was based on a complaint.

Piedmont-Smith commented that a property owner was responsible for the maintenance of stormwater easements and asked what happened when the stormwater originated off-site but affected the property.

Scanlan replied that that was a common call that staff received and that it was processed by the Drainage Engineer for the city in the Utilities Department. Scanlan stated that she would check about recourses for the property owner.

Piedmont-Smith asked about easement requirements for developments that were approved.

Scanlan stated that there were requirements and that it was mostly seen in single-family zones.

Rouker spoke about the "Common Enemy" doctrine in Indiana.

Rollo asked if Rouker was examining the requirement of owner occupancy of duplexes.

Rouker stated that the staff was looking into that requirement.

Presentation, Discussion, and
Public Comment on Chapter 5:
Subdivision Standards (*cont'd*)

Volan asked if the proposed UDO made it possible to reduce the minimum size lots that could be subsidized.

Scanlan stated that was proposed to change in the new UDO.

Robinson explained that the minimum lot size information was in Chapter 2 and that the subdivision standards applied to districts. Robinson provided brief examples.

Volan asked if the lot sizes increased.

Robinson said that the lot sizes did not increase.

Sturbaum asked if a change from commercial zoning to mixed-use residential was precluded.

Robinson said that was a mapping question but that commercial districts currently allowed residential uses.

Piedmont-Smith asked why the tree conservation easement, where no trees could be removed, was not kept in the new UDO.

Scanlan stated that staff would check and let the council know.

Piedmont-Smith asked why there was no open space requirement in the Commercial Employment subdivision, and if it would have open space in some other way.

Robinson responded that one of the goals was to have a balance between urbanization and open space requirements. Robinson stated that open space requirements were directed toward mixed-use and residential districts.

Scanlan stated that was a carryover from the existing commercial subdivision, and that other types of open space requirements were geared toward residential.

Rollo asked about street lighting, lighting fixture styles, and anything pertaining to efficiency, like Light Emitting Diodes (LED).

Robinson stated that the Board of Public Works worked with Duke energy and that many of the requirements were limited to what Duke offered.

Piedmont-Smith asked why cul-de-sacs were allowed in commercial districts, while connectivity was encouraged.

Scanlan explained that that was likely a carryover from the current code, and provided examples of what had been done in the recent past. Scanlan stated that it could be useful in environmentally sensitive areas where a road should not go through that area.

Michelle Henderson spoke about soil quality.

Public comment:

Sandy Clothier commented on suburban lots and density.

Peter Dorfman called attention to the future of brick and mortar retail compared to housing, and stated that those areas should be targeted for density.

David Keppel spoke about sustainability in townhomes, solar panels, and including strong incentives for sustainability in new construction.

Volan asked about the role of conservation and the limits on plexes based on historic preservation.

Scanlan confirmed that historic districts had guidelines with different levels of stringency.

Volan asked about protections for historic preservation districts.

Scanlan confirmed that there was another layer of review of design for those districts.

Volan asked about conditional uses that were approved.

Scanlan stated that there were many more that did not rise to the approval level. Scanlan stated that staff counseled people about whether or not the request would pass or not, and that it was mainly due to not meeting the minimum lot size.

Volan asked if there were any historic district descriptions that precluded lot sizes going smaller.

Scanlan stated that there was not.

Porter stated that a permanently affordable unit would remain if ownership changed and that the information was recorded at the courthouse and it would come up in a title search.

Rollo asked for clarification on suburban subdivisions.

Scanlan stated that some things carried over, but that she misspoke earlier, and that suburban subdivisions with curvy roads were not carried over.

Rollo asked if the traditional grid pattern would be followed.

Scanlan confirmed that was correct.

Rollo asked about repurposing retail spaces, especially large, big-box retail, that were clearly struggling.

Scanlan stated that staff would verify.

Volan asked if densifying the whole city, and creating more integration between residential and non-residential, was encouraged or not contemplated.

Scanlan stated it might be a mapping question, but that an infill subdivision could be done in any base zoning district. She explained that the uses for those sites would be derived from the zoning category. Scanlan stated that the Comprehensive Plan had guidance on where to have mixed-use districts.

Volan asked if it allowed for small nodes.

Scanlan confirmed it would be allowed.

Sturbaum asked if the nodes were considered and required in PUDs where polycentric development was wanted. Sturbaum asked if that was still the goal.

Scanlan stated that staff preferred that PUDs be mixed-use.

Sturbaum commented that in conservation districts, demolitions were not allowed, but that additions were allowed and were not reviewed. Sturbaum spoke about the role of the Historic Preservation Commission (HPC). Sturbaum clarified that outside of historic districts, about 95% of demolition delays were pass-through. He explained that stand-alone structures had almost no protection.

Presentation, Discussion, and
Public Comment on Chapter 5:
Subdivision Standards (*cont'd*)

Council discussion:

Volan spoke about plexes in general and commented on the positive feedback on the reduction of lot size. Volan referenced a section in the Comprehensive Plan that called for the establishment of affordable housing in locations with proximity to schools, employment centers, transit, and recreational opportunities, to increase access. Volan commented that infilling could be used and that the downtown did not need to be the only center of Bloomington. Volan stated that there could be more city centers in Bloomington and provided examples.

Presentation, Discussion, and
Public Comment on Chapter 5:
Subdivision Standards (*cont'd*)

Piedmont-Smith commented on the section on street design, part of the subdivision chapter, and the term "eyebrow" which was a crescent shape street where one could pull off and there were four homes. Piedmont-Smith stated that that was an automobile-centric design and was a waste of asphalt.

Sherman reviewed the upcoming schedule and the procedure for consideration of amendments.

COUNCIL SCHEDULE

Volan moved and it was seconded to recess until October 30, 2019, at 6:00 pm. The motion was approved by voice vote.

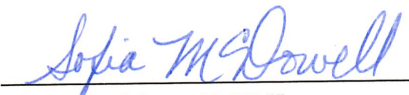
RECESS [8:26 pm]

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this
1 day of June, 2022.

APPROVE:

ATTEST:


Susan Sandberg, PRESIDENT
Bloomington Common Council


~~Nicole Bolden, CLERK~~
City of Bloomington
Sofia McDowell
Chief Deputy Clerk

