

In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Monday, November 27, 2006 at 6:00pm with Council President Chris Sturbaum presiding over a Special Session of the Common Council.

COMMON COUNCIL
SPECIAL SESSION
November 27, 2006

Roll Call: Wisler, Gaal, Rollo, Sturbaum, Sabbagh, Volan, Ruff (was present but out of the room)
Members Absent: Mayer, Diekhoff

ROLL CALL
[6:03pm]

Council President Chris Sturbaum gave a summary of the agenda.

AGENDA SUMMATION [6:04pm]

Sturbaum moved and it was seconded to adopt a revised procedure and schedule.

ANNOUNCEMENT OF SCHEDULE

Council Attorney Dan Sherman read the motion for Council consideration of Ordinance 06-24. Sherman read the revised schedule with notes regarding deadlines for submission of amendments.

Motion for Common Council
Consideration Ord 06-24
[6:06pm]

The motion received a roll call vote of Ayes: 7, Nays: 0, Abstain: 0.

Sturbaum encouraged the presenters to start on Chapter 1 of the Unified Development Ordinance (UDO), Basic Provisions. The presenters were Patricia Bernens, City Attorney; Josh Desmond, Assistant Planning Director; and Tom Micuda, Planning Director. Micuda stated that the purpose for the meeting was to give an overview of the first four chapters of the UDO. Micuda opened with Chapter 20.01.

Micuda stated that the amendments added focused language about zoning and subdivisions. He summarized the rules of interpretation and made a statement about transition rules regarding previous ordinances and the new ordinance to be considered. He outlined the base Zoning Districts, the Overlay Zoning Districts, and the establishment of Planned Unit Developments (PUDs). He mentioned the official zoning map, which was complicated by the interpretation of zoning district boundaries. He stated that the powers and duties belonged to the Common Council, Plan Commission, Board of Zoning Appeals, and Planning Department staff. He mentioned planning documents, including the Growth Policies Plan (GPP), Sub-area Plans, Downtown Vision & Infill Strategy Plan, and the Thoroughfare Plan. He stated that the Plan being used was the same as the plan from 1995 but the UDO combined language about zoning and subdivisions.

Chapter 20.01: Basic Provisions
[6:15pm]

Councilmember Brad Wisler asked about conflicts and inconsistency.

Micuda stated that if two or more provisions of the UDO were in conflict, the more restrictive provision would apply.

Wisler asked if Bloomington had experienced such a conflict with the current zoning ordinance and asked for examples.

Micuda could not give a relevant example or think of a time something like that occurred.

Wisler asked if the interpretation was the same as in the current ordinance.

Micuda answered that it was the same.

Council Questions:

Sturbaum asked if the regard to which the Growth Policies Plan was held had changed.

Micuda responded that the relationships were the same.

Micuda stated that the Plan Commission felt very comfortable with the Plan it had put together.

There was no public comment.

Public Comment:

Micuda explained that Chapter 2 covered the different zoning district layouts. He stated that each of the zoning district layouts included district intent, permitted/conditional uses, development standards, additional standards indices, and illustrative graphics. He said that the number of districts was reduced from 20 to 15 by eliminating the airport district, consolidating industrial districts, and simplifying residential districts. He showed points of emphasis, which were implementing GPP recommendations, mixed-uses, building-forward design, and impervious surface coverage. Micuda stated the types of districts that were to be kept.

Chapter 20.02: Zoning Districts
[6:28pm]

Councilmember Steve Volan asked about car lots used for car display in commercial districts.

Council Questions:

Micuda answered that vehicle sales located in a Commercial Arterial (CA) district needed a particular variance to operate in the district.

Volan asked if buyers could set up a business in privately owned buildings zoned as institutional. He specifically referenced Old Northeast near Woodlawn.

Micuda responded that if the private party wanted to do anything to the property, it was likely that the changes would not match the code. Those situations would have to be dealt with by the Planning Department on a case by case basis.

Volan asked if the private parties could apply to change the zoning.

Micuda said they could, or they could apply for a use variance.

Volan asked if the new districts accounted for people who owned properties by the Eastland Plaza/College Mall areas and decided they wanted to develop parking lots (gray field development). He asked if the districts prevented that kind of development and which district would allow the development.

Micuda responded that they did not set up a zoning district to specifically enable that kind of development but would consider the package of variances those kinds of developers would bring. The CA zoning district would allow it.

Volan asked if it would be a good idea to develop a zoning district before a developer did.

Micuda said perhaps within the next code update. No private developers had approached the city on it.

Volan encouraged the Planning Department to think about those kinds of developments being made by the city before private developers did.

Wisler asked what the rationale was for not including a professional/general office in the institutional district.

Micuda responded that despite the best attempt to zone institutional property for existing government facilities, vacant land was zoned as institutional property and bought by people who wanted to run private businesses/offices. He said staff did not think that was how such land should be used.

Wisler asked what would happen if the university wanted to use institutional land to have university offices but part of the building was also privately-owned offices. He wondered if that would require a rezone or a variance.

Micuda stated that it would not be a change of use. The office would have to be very unusual for the university to need a variance.

Wisler said that the Council previously talked about an amendment to include single-family dwellings in non-residential zoning districts, which was passed. He asked what that meant for someone who had a single-family dwelling, which would now be zoned in a commercial designation.

Chapter 20.02 (cont'd)

Micuda said that the amendment allowed such properties to be considered conforming to the rules of the ordinance, so they could add on to their property so long as they met the set-back requirements. The amendment allowed for those kinds of projects and did not need a variance.

Wisler asked if there was a study check to see if there were any conflicts with single-family dwellings and those zones.

Micuda responded that he would have to check but he did not think so.

Wisler asked if legally, a general rule was considered over a specific rule and if a recent rule was considered over a prior rule, regarding the rules of interpretation.

Bernens responded that there was not a perfect system, but one would have to consider the legislative intent.

Councilmember Chris Gaal asked if the box for additional development standards was intended to be all inclusive.

Micuda said it was intended to help the user find their district and learn what they needed to build a single family home. The guide was meant to be user friendly and on par with the ordinance.

Sturbaum asked how the proposal treated a trailer park and if individual residents were notified.

Micuda said the owner of the facility would be notified and encouraged to talk to the residents.

Sturbaum asked if special provisions in the language were needed to accommodate the peculiar relationship trailer owners had in a trailer park because they did not own the land.

Micuda said there was nothing in the ordinance that said the individuals needed to be notified of changes in addition to the park owner.

Sturbaum asked if it would be an appropriate time to consider an amendment that would do that.

Bernens said that it might be better to discuss that at a later date, but she was sure Sherman now had that issue on a list of future topics. She said they needed to think about issues of notice as to not create a legal issue.

Sturbaum asked how sexually-oriented businesses should be handled.

Bernens responded that they would need to look into that.

Micuda then said he would talk about that in Chapter 5.

Councilmember Dave Rollo asked if the public would be in greater agreement with the new document.

Micuda responded that they anticipated that the public would have more certainty of land use with the new document.

Wisler asked about convenience stores with gas having permission in a few of the new districts. He asked if there was any other permitted use for a gas station without a convenience store.

Micuda said that issue came up in the Plan Commission and the use 'gas station' did get added into the new document. In the CA district, 'gas station' was a permitted use and in the CG (Commercial general) district it was a permitted use with restrictions on design.

Wisler asked if there was any discussion of gas station use being moved into the new industrial district.

Micuda said there was not.

Wisler asked why gas use was not in industrial as to not force heavy trucks into town.

Micuda stated that there were design challenges outside of a PUD process to allow a gas station into the business park district. He said that the city would rather have those projects come in on a case-by-case basis. He thought there was not enough land in industrial for it.

Wisler then asked if there were any new uses created in a similar scenario.

Micuda said he would have to get back to him on that.

Wisler asked if list of permitted uses would cover the gambit of conceivable uses for a property.

Micuda responded that the intent of the ordinance was to try to cover all known possible land uses. He stated that about every two years, a developer would propose an idea that was not covered. There was a procedure to categorize that unusual use, or not classify it and deal with it via a variance or PUD.

Wisler asked if there were any uses the consultant brought up that Bloomington did not include in its uses.

Micuda said he could not answer but that there was not anything unusual that the consultant suggested to add to the list.

There was no public comment.

Chapter 20.02 (cont'd)

Public Comment:

Micuda stated that Chapter 3 covered the downtown overlay district. He stated that the downtown plan gave general guidelines. He said that Planning's task was to take guidance from the plan and make real zoning regulations. He said they developed an overlay approach by mapping the downtown district into six distinct overlays. The overlays dictated specific issues; such as height, density, parking, set-backs, and design standards. Chapter 3 covered the topics of district intent, review process, review standards, effect on uses, development standards, architectural standards, and design guidelines.

Chapter 20.03: Overlay Districts
[7:24pm]

Micuda stated that the proposed review process for building height would be that the staff would review projects that were within the minimum and maximum height restrictions for a district. The Plan Commission would then review all projects that had a height outside of the maximum or minimum height requirements. Essentially, the staff would review small buildings and the Plan Commission would review tall buildings. Micuda then covered the uses, density, and height restrictions of each of the overlays.

Micuda discussed the Plan Commission's review process. He stated that the following points triggered review: deviation from permitted/conditional use lists, deviation from development standards, deviation from architectural standards, and other special triggers listed in the review process section. The Plan Commission's review was to be guided by the Downtown Vision and Infill Strategy Plan.

Councilmember David Sabbagh asked if he could hypothetically put up an 80-foot building in District V without trouble.

Council Questions:

Micuda said not necessarily and explained that each district had a height restriction.

Sabbagh said he was concerned about the height limitations. His understanding was that downtown land was more expensive than suburban land and that wanting to urbanize downtown meant going vertical and not horizontal. He said it seemed severe.

Micuda did not think so. The height limitation only restricted who (staff vs. Plan Commission) reviewed the project, not whether the building would or would not be approved.

Chapter 20.03 (cont'd)

Sabbagh mentioned that would add to the cost of development because a developer would have more meetings to go to.

Micuda said that developers already had to attend a public hearing, so it would not add to the cost.

Sabbagh asked for clarification on what "facing the courthouse" meant.

Micuda said facing the courthouse referred to buildings on the immediate four streets plus corner properties, such as the Trojan Horse building.

Sabbagh asked if buildings outside of that description had a larger possible height range.

Micuda said yes.

Sabbagh asked if that would discourage taller buildings within the core.

Micuda said he thought it would only improve good architectural standards for building compatibility with the downtown plan. He reiterated that the height standards only specified whether staff or the Plan Commission would review the plan.

Gaal asked why there was a change in density measurement from units to bedrooms. He was concerned that Bloomington had a lot of students moving downtown. He said the Council wanted to round out Bloomington's demographics by having other groups live downtown.

Micuda said that there was not a loophole created by changing units per acre to bedrooms per acre.

Gaal said that some people thought moving students downtown was a good thing and some argued that the city should promote other demographic groups moving downtown. He asked if there were other policies in the UDO that could promote that idea.

Micuda said the UDO was neutral and the Planning Department encouraged developers to market toward non-student demographics.

Wisler asked if 25 feet was intended to be two stories.

Micuda said yes and that 25 feet encompassed two stories of residential and commercial buildings.

Wisler asked why the UDO did not say that all one story buildings had to be reviewed in order to stop large façades being built on top of single stories.

Micuda said that Planning had restricted the kinds of façades that could be added onto a building.

Wisler asked if the "facing the courthouse" rule was defined anywhere in the UDO.

Micuda said it was in Chapter 12, the definition section.

Sturbaum asked if there was an amendment stating that the four corners were facing the courthouse.

Micuda said that it was on page 12 of Chapter 12 and was not in the initial version, but was amended to clarify the definition of Courthouse Square.

Wisler asked if the "facing the courthouse" rule broke at the property line or the structure.

Micuda said that that definition referred to the buildings.

Wisler asked if there was a definition of building in the document.

Micuda said yes, and that those rules only dealt with building height.

Wisler asked if, by the definition, the Trojan Horse building was a separate building from Uptown.

Micuda said yes.

Wisler asked if the Tech Park overlay was identical to the Tech map. Chapter 20.03 (*cont'd*)

Micuda said no, those overlays came about as a result of the Downtown Plan process.

Volan asked Gaal if he could elaborate on what other issues he thought might arise in the downtown area.

Gaal said he thought the Smallwood project was about two stories too high and it had created a situation where Bloomington needed to balance the student population downtown with other demographic groups.

Volan then asked which chapters were most relevant to Gaal's concerns.

Micuda responded that it was Chapter 3.

Rollo stated that he thought balance was important. He asked if there had been an attempt to grapple with the question via a census.

Micuda said that the city had a market analysis based on census data and interviews. National trends showed that people were interested in living downtown. Consultants said that it could be reasonably expected that other demographics would move downtown. The consultant also said not to approach the problem through zoning.

Rollo stated that to balance those groups was difficult when some groups had different needs. He wondered if it would be better to have some kind of metric to measure relevant demographics.

Sabbagh said that Bloomington had student housing downtown because Indiana University was close to downtown. It was important that downtown be a center for jobs for young professionals.

Micuda said that there should be both options for those who want to live downtown and those who work downtown. The only thing that would fix the issue was more restrictive controls on density, which he said he would not advocate. More projects would have to go through more public hearings and new documents and plans would have to be made with regards to balancing demographics. He thought the UDO document was not ready to deal with density regarding demographics.

Sturbaum mentioned that the tall buildings required more oversight. He said that they wanted to get the "strike zone" (threshold requirements) correct in order to avoid a system where nothing got reviewed. He thought that the Council and Planning needed to decide what limits they were comfortable with. His personal preference was that the threshold should come down a bit.

Micuda said that, depending on where the building was downtown, a mixed-use development between 3 and 5 stories must get reviewed.

Sturbaum said he would like to see more of those projects go to the Plan Commission. Sturbaum said that Bloomington did not have a scarcity of land and had a lot of parking lots and too small buildings. He wanted to dispel the myth that Bloomington did not get enough projects. He said that the city had to be careful about the big project that could kill off other projects. He thought it was appropriate to have more review and discretion.

Volan asked Sturbaum how the city could encourage the kind of development it wanted to see. Volan thought the city had to ask for or incentivize the kinds of buildings it wanted. He did not see how putting more restrictions on a building encouraged the kinds of buildings the city wanted. It only discouraged the kinds it did not want.

Chapter 20.03 (cont'd)

Sturbaum replied to Volan that developers were encouraged to throw within the "strike zone" because those projects were not required to be reviewed and that acted as an incentive.

Volan posed a hypothetical where the city wanted to jumpstart condos for retirees. He asked if the city should offer the idea to developers.

Sturbaum thought that was the way it was handled. The Council assumed the market would determine what was to be built.

Volan said he asked a more philosophical question.

Sturbaum said that there was an amendment that was coming that dropped heights from 55 feet to 40 feet in University Village, from 60 feet to 50 feet in the Downtown Core, and the Courthouse square all went down to 40 feet.

Micuda said that the amendment Sturbaum described was brought forward by Gaal and had a close vote of 6-4 at the Plan Commission. However, Planning decided not to lower the heights. He said that they had a lot of faith in the standards, which was why they had a large "strike zone." He said that they understood the vote would probably come up again.

Rollo asked if 45 feet was 4 stories.

Micuda said yes, but it could also be a 3 story mixed-use building.

Gaal asked Micuda his opinion of promoting mixed-residential uses.

Micuda said that inclusion of a single purpose statement might be helpful but it probably would not go as far as the city might think.

Gaal thought that there was a public policy goal for mixed-demographic arrangements that could benefit downtown and different groups. He asked if an amendment to eliminate the parking requirement south of downtown would affect demographic groups or favor students.

Micuda said he did not think it would be the sole factor in the development of a project. A condo would want to include parking for its residents, but would not be a determinant in the type of market there.

There was no public comment.

Public Comment:

Sabbagh thought the Council was fixated on residential development downtown. He said it should be focusing on office buildings downtown. He thought the heights were workable, but for the extended area around downtown, the UDO might make it more difficult for building offices in that area. He thought it would hurt the vibrancy of downtown.

Council Comments:

Sturbaum said that the city had a lot of trust in the ordinance but that it should put more trust in the Plan Commission. He chose to trust the Plan Commission and its ability to interpret the guidelines.

Rollo agreed with Sturbaum that promoting density downtown was good. He thought that taller structures would be a good opportunity for the public to have input on the downtown. He thought it was smart to have greater review.

Micuda said that the Planned Unit Development (PUD) section was a process instead of a set of standards. Chapter 4 discussed the process of PUDs. There was a qualifying standards section, which had a proposed minimum area for a PUD of five acres. PUDs would not be allowed within the CD district. The PUD District Ordinance/Preliminary Plan would require a neighborhood meeting prior to submitting an application. The plan would also consider a PUD abandoned if no final plan was approved within three years. The final plan would be reviewed by the Plan Commission unless designated to staff. Micuda stated that Planning kept the abandonment clause at three years. If no permits were obtained within three years the PUD was considered abandoned. The big changes in the PUD section were the inclusion of the public benefit language, changing the abandonment consideration to two years versus 18 months, and increasing public neighborhood meetings regarding the PUDs. Sabbagh asked if abandonment went to the Plan Commission.

Micuda said that if a PUD had not been acted on after a two-year period, the commission could act to rescind the PUD. He said it was up to the Commission and the Council what action would be taken.

Rollo asked what the motivation was to increase the PUD acreage from three to five acres. Council Questions:

Micuda said that there was creative potential that was not able to grow in an area of three acres. Bloomington had not had many PUDs under three acres. Micuda said that if a developer had a unique project for a smaller PUD, the developer could apply for a waiver and tell the commission why the project deserved a waiver. The commission and the Council had to agree that a smaller PUD had a legitimate purpose. Therefore the Council had control over the outcome.

Rollo asked if PUDs were labor intensive for the Planning staff.

Micuda said yes.

Sturbaum asked if the Plan Commission waiver for a smaller PUD size was an amendment.

Micuda said that the information about the waiver was added after the original draft was released.

Sturbaum said that the waiver could make a very small PUD, but that they needed to trust the Plan Commission and Council.

Micuda said that an example of a PUD that was less than three acres was the renewal of Hopewell PUD. The developer sought a waiver for a smaller PUD.

Sturbaum asked about the success of that process.

Micuda replied that the outcome was mixed but Planning thought the developer had a legitimate reason for a smaller PUD in that case.

Rollo asked if the waiver required public notification, such as a posted sign on the property about waiving the current zoning for the PUD.

Micuda said that a legal notice to the different property owners and a posted sign about the PUD was required. He had not thought about adding the waiver into the signs. He said that Planning could build it into the notification for the residents.

Wisler asked if there were properties that were PUDs that previously had a more specific designation.

Micuda said no, all staff did was take the old PUDs and carry them forward onto the new map.

Wisler asked if any PUDs had expired.

Micuda said that they never expired unless action was taken to rescind them. There were a couple of PUDs that went past their time but they were not considered expired.

There was no public comment.

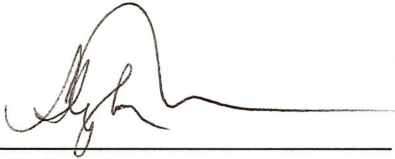
Public Comment:

The meeting went into recess at 8:55pm.

RECESS

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this
5th day of February, 2020.

APPROVE:



Steve Volan, PRESIDENT
Bloomington Common Council

ATTEST:



Nicole Bolden, CLERK
City of Bloomington

