

In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Monday, December 4, 2006 at 6:00pm with Council President Chris Sturbaum presiding over a Special Session of the Common Council.

COMMON COUNCIL
SPECIAL SESSION
December 4, 2006

Clerk's Note: On November 27, 2006, the Common Council called to order a Special Session, which began the Council's consideration of Ordinance 06-24 to be completed over a series of meetings. Please refer to the minutes from that meeting for a description of the motion made in regard to the consideration of Ordinance 06-24.

Roll Call: Wisler, Diekhoff, Gaal, Rollo, Sturbaum, Mayer, Ruff, Sabbagh, Volan
Absent: None

ROLL CALL [6:06pm]

Council President Chris Sturbaum gave a summary of the agenda.

AGENDA SUMMATION [6:07pm]

It was moved and seconded that Ordinance 06-24 be introduced and read by title and synopsis only. The motion was approved by voice vote. Clerk Regina Moore read the legislation by title and synopsis.

INTRODUCTION OF ORDINANCE
[6:09PM]

Councilmember Tim Mayer moved and it was seconded that Ordinance 6-24 be adopted.

Ordinance 06-24 - To Repeal and Replace Title 20 of the Bloomington Municipal Code Entitled, "Zoning", Including the Incorporated Zoning Maps, and Title 19 of the Bloomington Municipal Code, Entitled "Subdivisions"

Patricia Bernens, City Attorney, explained the ordinance and its implications for the city.

Councilmember Steve Volan made a statement regarding a potential financial conflict with the ordinance. He stated that he was the owner of a downtown business called Cinemat. He mentioned that he also was a sponsor for some amendments that would affect downtown businesses. He believed he was capable of voting fairly but would recuse himself if his interests were in direct conflict of a vote.

CONSIDERATION OF
AMENDMENTS

It was moved and seconded to adopt Amendment 05.

Amendment 05 [6:16pm]

Sturbaum said the amendment attempted to stop certain buildings from being torn down in the National Register District.

Sturbaum asked if the Planning Department had any objections to the amendment.

Council Questions:

Tom Micuda, Planning Director, said no. He said that the amendment aligned with the original Unified Development Ordinance (UDO) that Planning had created. He explained that the Plan Commission originally combined state and federal designated properties to incentivize developers. The drawback was that the state did not restrict one from demolishing a structure. He said that the Plan Commission was comfortable with Sturbaum's amendment.

Councilmember Brad Wisler asked Sturbaum if his main concern was people taking advantage of the tax credit to demolish a building.

Sturbaum said no. He did not think there was sufficient public good to grant the use variances.

Wisler asked why someone would pursue state designation and not a local designation.

Sturbaum said that developers could receive tax credits for the rehabilitation if it became a commercial property. He thought the community would have no control over how the property would be treated over time.

Wisler asked if the original intent was to get people to pursue local designation.

Councilmember Andy Ruff asked Micuda if he was supportive or neutral on the amendment.

Amendment 05 (cont'd)

Micuda said he supported it.

Marjorie Hudgens, Chairman of the Bloomington Historic Preservation Commission (HPC), spoke in favor of the amendment.

Janine Butler, member of the HPC, spoke in favor of the amendment.

Patrick Murray from the Prospect Hill Neighborhood Association spoke in favor of the amendment.

Public Comment:

Steve Wyatt from Bloomington Restorations spoke in favor of the amendment.

Sandy Clothier, member of the HPC, spoke in favor of the amendment.

Jan Sorbey, member of Bloomington Restorations Board, spoke in favor of the amendment.

Sarah Clemenger spoke in favor of the amendment.

Jenny Southern from the Elm Heights Neighborhood Association spoke in favor of the amendment.

Volan asked for examples of a change of use that residents would not like.

Council Comment:

Hudgens said she was afraid a house would be torn down to build a high-rise building.

Sturbaum said that a developer could ask the Board of Zoning Appeals (BZA) for a much higher density in a single-family zone.

Wisler asked if developers had to go to the BZA to approve a change of use.

Micuda said yes.

Sturbaum said developers could modify a building's exterior and make it not historic if the amendment did not pass.

Wisler asked if developers could still apply for a change of use without local designation and be approved even if the amendment passed.

Micuda said normally developers would apply for a variance for non-residential use in a residential district.

Wisler asked what the difference in the process was.

Micuda said an approval by the BZA for re-use was less discretionary and easier to get than getting a use variance approval.

The motion to adopt Amendment 05 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote on Amendment 05 [6:48pm]

It was moved and seconded to adopt Amendment 01.

Amendment 01 [6:49pm]

Sturbaum explained that the amendment lowered the height threshold that triggered review so that the Plan Commission would review more proposed developments.

Volan asked how tall the Louis building downtown was.

Council Questions:

Micuda said it was three stories and 50 feet.

Volan asked what the height limitation in University Village was.

Micuda said under Sturbaum's amendment it was 40 feet, but in the unamended UDO it was 55 feet.

Councilmember David Sabbagh asked Sturbaum if 40 feet was an arbitrary number.

Amendment 01 (cont'd)

Sturbaum said that the predominant size of buildings in Bloomington were around two stories high, which translated to roughly 40 feet. He wanted buildings higher than that to have more consideration to make sure they would fit with the character of Bloomington.

Sandy Clothier spoke in support of the amendment.

Public Comment:

Mike Snapp spoke against the amendment.

Jenny Southern spoke in support of the amendment.

Jan Sorbey spoke in support of the amendment.

Jim Murphey spoke against the amendment.

Sarah Clemenger spoke in support of the amendment.

Margaret Fetty spoke against the amendment.

John Lawrence spoke in support of the amendment.

Bill Hayden spoke in support of the amendment.

Greg Bowman spoke against the amendment.

Christy Steele spoke against the amendment.

Ruff asked about the conflicts and consistencies between the Growth Policies Plan (GPP) and the UDO.

Council Questions:

Micuda said that details such as the height thresholds that triggered staff review versus Plan Commission review were so specific that they would not show up in the GPP. He said that a height requirement would not conflict with the GPP.

Ruff then asked what the GPP would guide towards with the issue of height requirements.

Micuda said the GPP would recommend an urban downtown with taller buildings to meet goals of higher density.

Ruff asked what would change procedurally with public input.

Micuda said the costs and time costs would be on the side of the developer regarding a public hearing process versus a staff review.

Ruff then asked how the public would benefit.

Micuda said the benefit of a Plan Commission review was that the public would be more involved and knowledgeable about the downtown area.

Councilmember Dave Rollo asked if the Smallwood development was reviewed by BZA or the Plan Commission.

Micuda said both reviewed Smallwood.

Sturbaum asked if the previous plan for Smallwood had problems when it faced the BZA.

Micuda said it did not have a complete hearing because it was withdrawn.

Rollo asked Micuda about the height and aesthetics of the first Smallwood plan.

Micuda said the original plan had a very different architecture.

Rollo asked if the first proposal brought Smallwood up to Morton Street.

Micuda said yes.

Councilmember Chris Gaal asked what the differences in review were between the Plan Commission and BZA.

Micuda said the Plan Commission did a limited site plan review and the BZA's review was broader in scope.

Wisler asked if there were objective criteria for figuring out the context of allowing a taller building in the review process.

Micuda said that the evaluation of the site plan by the staff was subjective. The staff looked at the project in terms of proportion to the surrounding area. If a project was a close call in the review process, staff submitted it for public review.

Ruff asked how Smallwood would have been handled with the proposed amendment versus without the amendment.

Micuda said that regardless of the sizes in the amendment and outside of it, Smallwood would have been submitted to the Plan Commission because of its height and other design issues.

Ruff asked Micuda to imagine Smallwood were in the thresholds of the new UDO and Sturbaum's amendment.

Micuda said if it exceeded either threshold, it required Plan Commission review.

Ruff asked what the height of Fountain Square Mall was.

Micuda said it was 52 feet.

Ruff asked about the conflicting ideas from the public commenters. He wanted to know which scenario was true with regards to the idea that some people thought the amendment would price small businesses out of the downtown and some people thought taller buildings would be cheaper.

Micuda said if there were more allowances and an expectation of being able to build very high, the appraisals would have expectations of higher costs.

Wisler asked if the Plan Commission would review all aspects of a project that met all requirements but height, or if it would only review the height.

Micuda said that he expected the Plan Commission to focus on height.

Sturbaum asked if Micuda had ever seen the Plan Commission and the Planning Department staff disagree on any issues.

Micuda said yes.

There was no public comment.

Public Comment:

Wisler said he wanted to discourage sprawl and encourage business owners to build in the downtown. He was afraid the amendment sent a mixed message about compact urban form.

Council Comment:

Gaal said that the downtown was a key public space and he thought there was an inherent value for having further public review. He was in favor of the amendment.

Rollo said he supported the amendment and wanted more public review.

Sabbagh believed downtown needed to be a major employment center and should grow taller. He was against the amendment and thought the heights were arbitrary. Amendment 01 (cont'd)

Volan said he fundamentally disagreed with the amendment but would vote in favor of it because he believed in high public involvement.

Ruff thought there was a tradeoff between a slightly better public process and negatively influencing downtown vitality.

Mayer talked about the benefits of review by the Plan Commission. He was in favor of more scrutiny and supported the amendment.

Sturbaum thought increasing public review would reduce the polarity between developers and neighborhoods.

The motion to adopt Amendment 01 received a roll call vote of Ayes: 6, Nays: 3 (Wisler, Sabbagh, Ruff), Abstain: 0. Vote on Amendment 01 [8:33pm]

It was moved and seconded that Amendment 06 be adopted. Amendment 06 [8:48pm]

Gaal explained that the amendment was a measure to promote alternative transportation and protect alternative transportation from the elements. Gaal wanted to lower the threshold of the amount of bedrooms required for each Class 1 and Class 2 bicycle parking facility. He said staff supported the amendment.

Sabbagh asked what triggered the requirements in the amendment.

Council Questions:

Micuda stated that a building with 64 or more bedrooms must comply with adding Class 1 and Class 2 facilities according to the amendment.

Sabbagh asked for the definition of a Class 1 unit.

Micuda said it was the secure facility, such as a locker or a closed locked room.

Sabbagh asked how many units a 64 bedroom building would require.

Micuda said a 120 room multi-family project would require 20 bicycle spaces, ten of which needed to be covered and 5 of which had to be a locked and secured facility.

Sabbagh asked if the building would require covered automobile parking.

Micuda said that was the choice of the developer.

Sabbagh asked how a developer would build an enclosure.

Micuda said it would presumably be a separate structure and it would likely go with enclosed car parking already included with the structure.

Sabbagh said he did not want to put up metal sheds in the downtown area for bicycles.

Micuda said that would not be likely.

Wisler asked what the rationale for 64 bedrooms was.

Micuda said it was dealing with the issue of proportional cost.

Sturbaum asked how many bicycles fit in one locker.

Micuda said four.

Wisler asked if there would be installation of pre-manufactured bicycles lockers or on-site construction of facilities.

Amendment 06 (cont'd)

Micuda said there would be dual-purpose use of enclosed car parking and pre-manufactured bicycle lockers.

Wisler then asked if the price Micuda generated was for the pre-manufactured lockers included shipping and installment.

Micuda said yes.

Jim Murphey spoke against the amendment.

Public Comment:

Bill Hayden spoke in favor of the amendment.

John Lawrence spoke in favor of the amendment.

Margaret Fetty spoke against the amendment.

Jan Sorbey spoke in favor of the amendment.

Rollo asked if Planning had done any cost comparisons between car parking downtown and Class 1 bicycle parking. He thought that a developer could fit a lot of bikes in a space meant for one car and that idea might possibly offset the cost for the developer.

Council Comment:

Micuda said his analysis was not detailed, but if a car space in a parking garage cost about \$15,000 and it cost \$2500 to park four bicycle in a car space, then one bicycle space would cost roughly \$600.

Rollo stated that he supported the amendment.

Mayer stated that he supported the amendment and spoke about the wear and tear on buildings that occurred when people took bicycles in and out of them.

Volan said he was in support of the amendment because he wanted to see more bicycling and fewer cars in Bloomington.

Wisler agreed with the vision of moving toward more bicycling in Bloomington but had a fundamental disagreement with mandated covered parking provided by developers.

Gaal stated that the area his amendment affected was multi-family residential zones and non-residential zones.

Ruff was in favor of the amendment because he thought it was an incentive for riding bicycles.

The motion to adopt Amendment 06 received a roll call vote of Ayes: 8, Nays: 1 (Wisler), Abstain: 0.

Vote on Amendment 06 [9:41pm]

It was moved and seconded to postpone the introduction of Amendment 02 until Monday, December 11, 2006. The motion received a roll call vote of Ayes: 8, Nays: 1 (Diekoff), Abstain: 0.

Vote to postpone introduction of Amendment 02 [9:42pm]

It was moved and seconded to adopt Amendment 03.

Amendment 03 [9:43pm]

Sturbaum explained that the amendment was meant to create more interaction between people using the B-Line trail and the businesses located on the trail.

Micuda said that the Plan Commission relaxed the amount of necessary entry points to the trail because businesses, like multi-business buildings, preferred a single access point, where others were better designed to put in a designated entrance to the trail.

Amendment 03 (cont'd)
Council Questions:

Sturbaum asked what a multi-business building could do if the amendment passed and it had a good argument to only have one access point instead of one for each business.

Micuda said it could go to the Plan Commission and then it would be up to the Plan Commission's discretion.

Mayer asked if the Plan Commission had any conversations about security. He said that it might not make sense to have more than one entrance to certain buildings whereas it would make more sense for other businesses to have separate entrances.

Micuda said there was public discussion on specific buildings needing internal rather than external access from the building to the trail. He said he was not sure if that was concerning security or building layout.

Sturbaum asked if it was cheaper to put in one entrance or four entrances.

Micuda said it would probably be cheaper to put in one entrance but that it would depend on the building.

Sturbaum asked if the standard should be at the lowest common denominator or set at what the Council wanted for the trail and let developers ask the Plan Commission for a variance.

Micuda said there would be different opinions on what the trail should look like in terms of access.

Wisler asked how many ground level tenants there were in the Bunger and Robertson building.

Sabbagh said there were four.

Wisler asked how many entrances there were to the building.

Sabbagh said there were two.

Wisler said he thought it would make more sense for the amendment to require that a building have as many entrances to the trail as it did to a street or parking lot.

Micuda said that the ordinance did not require multiple entrances for a street. He said the impact of the amendment was that a building could have more entrances to the trail than it could on the side facing the street.

Sabbagh asked Sturbaum why he only thought about retail buildings and not offices.

Sturbaum said that an office building could go to the Plan Commission and it would grant that building a variance.

Sabbagh thought it should be the other way around. He said that office buildings wanted absolute security.

Sturbaum said that the Plan Commission would understand that.

Christy Steele spoke against the amendment.

Public Comment:

Jim Murphey spoke against the amendment.

Jan Sorbey said spoke in favor of the amendment.

Volan asked Sturbaum what the difference between Amendment 03 and Amendment 04 were.

Council Comment:

Sturbaum said that Amendment 03 was for the trail and Amendment 04 was for the downtown.

Wisler said that for the trail to be successful, retailers and offices needed to want to be near it. He was worried it would be a hassle to develop there.

Sabbagh thought the amendment would discourage diversity in buildings and the town and offices would have to sacrifice security.

Amendment 03 (cont'd)

Ruff said he appreciated Sturbaum's enthusiasm to make the trail attractive and useable. He said he was concerned with not taking into consideration what the future uses would be of certain offices and buildings.

Mayer said he thought the business use should determine the access to the trail.

Rollo said that if the trail itself was attractive that it would attract pedestrian use.

Sturbaum said as a preservationist, he had a long-term view of the buildings. He said the buildings would be along the trail for a long time and certain businesses would not be in those buildings forever. He said the amendment was about future-proofing the trail.

Volan said there were unfounded fears about businesses moving to the mall or the west side. He said if that were true, there would be no downtown. He said he did not see a need for the amendment.

The motion to adopt Amendment 03 received a roll call vote of Ayes: 1 (Sturbaum), Nays: 8, Abstain: 0. FAILED.

Vote on Amendment 03 [10:21pm]

It was moved and seconded to adopt Amendment 04.

Amendment 04 [10:22pm]

Sturbaum said the amendment was for the downtown and required one door per façade.

Micuda said there were buildings in the downtown that occupied corner lots but did not have pedestrian entrances on both street frontages. He said those buildings still worked architecturally so the writers of the UDO struggled with requiring businesses to provide more entrances. The Plan Commission determined that one entrance was necessary per 66 feet. The staff's original language was to have a pedestrian entrance per street frontage.

Gaal asked if Micuda used Talbot's as an example at the Plan Commission.

Council Questions:

Micuda said that he used Scholar's Inn Bakehouse as an example.

Rollo asked if there was any input from emergency service people on the amount of entrances per building.

Micuda said no.

Mayer asked about security for retailers with only one worker present at a time and two entrances. He noted that shop lifting and theft would be a heightened security threat with two entrances. He also said that adding more doors would increase energy use in terms of heat and air-conditioning.

Micuda said there was not a specific discussion about that at the Plan Commission. He said there were specific uses that did not lend themselves well to having more than one entrance, such as a restaurant or a bank.

Ruff asked if the door had to be open during hours of operation.

Amendment 04 (cont'd)

Micuda said that it had to have an inviting look and a function.

Ruff asked if the amendment would commit businesses to use the entry point that way.

Micuda said he could see building owners stating that they did not want the side entrance but could achieve the look necessary to make it inviting to pedestrians.

Ruff asked how staff would react to that.

Micuda said that the Plan Commission would have to waive the necessity for a second access point.

Jim Murphey spoke against the amendment.

Public Comment:

Christy Steele spoke against the amendment.

Sturbaum agreed with the public comment and would not support his amendment.

Council Comment:

Gaal said that he opposed the idea when it came to the Plan Commission.

The motion to adopt Amendment 04 received a roll call vote of Ayes: 0, Nays: 9, Abstain: 0. FAILED.

Vote on Amendment 04 [10:36pm]

It was moved and seconded that Amendment 15 be adopted.

Amendment 15 [10:37pm]

Sturbaum said the amendment was to allow businesses to conduct longer periods of temporary retail activity.

There was no public comment.

Public Comment:

Volan said the way he was reading the amendment was that one could put up a tent sale for 45 days, take it down, and then put the tent up again for another 45 day period.

Council Comment:

Sturbaum interjected and said a business owner could only do it once per year.

Mayer thanked Mr. Osbourne for bringing the issue to the attention of the Council.

The motion to adopt Amendment 15 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote on Amendment 15 [10:39pm]

The meeting went into recess at 10:40pm.

RECESS


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

APPROVE:

ATTEST:



Steve Vofan, PRESIDENT
Bloomington Common Council



Nicole Bolden, CLERK
City of Bloomington

