

In Bloomington, Indiana on Wednesday, May 05, 2021 at 7:30pm, Council President Jim Sims presided over a Special Session of the Common Council. Per the Governor’s Executive Orders, this meeting was conducted electronically via Zoom.

COMMON COUNCIL
SPECIAL SESSION
May 05, 2021

Councilmembers present via Zoom: Matt Flaherty, Isabel Piedmont-Smith, Dave Rollo, Kate Rosenbarger, Susan Sandberg, Sue Sgambelluri, Jim Sims, Ron Smith, Stephen Volan
Councilmembers absent: none

ROLL CALL [7:32pm]

Clerk’s Note: On May 4, 2021, the Common Council called to order a Special Session, which began the Council’s consideration of Ordinance 21-23 and Ordinance 21-24 to be completed over a series of meetings including May 05, May 06, May 12, and May 13 of 2021.

Council President Jim Sims summarized the agenda.

AGENDA SUMMATION [7:32pm]

Sims summarized the conduct of deliberations.

CONDUCT OF DELIBERATIONS

ORDINANCE 21-23 [7:35pm]

Piedmont-Smith moved and it was seconded to adopt Amendment 02 to Ordinance 21-23. Piedmont-Smith presented Amendment 02. Sims added that Amendment 02 was a compromise and spoke about conditional use and community feedback.

Ordinance 21-23 – To Amend Title 20 (Unified Development Ordinance) of the Bloomington Municipal Code – Re: Regulations Related to Dwelling, Duplex; Dwelling, Triplex, and Dwelling, Fourplex Set Forth in BMC 20.03 and 20.04

Amendment 02 Synopsis: This amendment is sponsored by Councilmembers Piedmont-Smith and Sims. It presents a compromise by allowing some carefully reviewed duplexes in residential neighborhoods. The text amends the allowed use table to allow “Dwelling, duplex” as a conditional use in the R1, R2, and R3 zoning districts. It also makes changes to the conditional use permit process to require that conditional use permit petitions for the “Dwelling, duplex” use in the R1, R2, or R3 zones include a pre-submittal neighborhood meeting and are reviewed by the Board of Zoning Appeals.

Amendment 02 to Ordinance 21-23

Jackie Scanlan, Development Services Manager in the Planning and Transportation Department, reviewed conditional use and its approval process.

Piedmont-Smith clarified specific points that the Board of Zoning Appeals (BZA) needed to consider.

Rollo asked the sponsors to describe the process and requirements for the meeting between the petitioner and the neighborhood.

Council questions:

Scanlan responded that the petitioner was required to reach out to the primary contact of the neighborhood association. If the neighborhood association preferred that the petitioner appear at a meeting, then a staff member would also attend.

Rollo questioned how this process was verified.

Scanlan stated that staff attended the meeting.

Rollo said that there were no expectations other than the meeting occur and there was no defined outcome other than notification.

Scanlan said that in her experience, staff would take all of the materials that went to the BZA, to the neighborhood association meeting. Sometimes the neighborhood association would not engage, and other times they would and would work with the petitioner on issues.

Rollo stated that the process legislated courtesy.

Scanlan explained that it was a requirement and not a courtesy.

Sandberg asked if things like traffic flow, congestion, parking conflicts, and more could be raised as concerns at the neighborhood association meeting, and for the BZA to consider, or if it was better addressed in the ten criteria list of concerns.

Amendment 02 to Ordinance 21-23 (*cont'd*)

Council questions:

Scanlan stated that any concerns could be raised for consideration, though she did not believe that parking was specifically listed in the ten criteria list of concerns.

Sandberg asked if it was ideal to add parking to the ten criteria list in order to allow for meaningful change to a project.

Scanlan explained that uses that were expected to have an outsized amount of parking were addressed within the Unified Development Ordinance (UDO). One additional unit on a lot was not addressed when Accessory Dwelling Units (ADUs) were added.

Sandberg asked if staff objected to amending the criteria.

Scanlan clarified that the criteria was tied to providing adequate services and that parking might be already included in the street portion.

Smith asked if duplexes in a smaller neighborhood would be considered a nuisance by the BZA.

Scanlan explained that it would be up to the BZA to determine that. She added that there were already some restrictions in place; duplexes could not get parking permits in any areas that had residential neighborhood passes and also could not park on the street. Those duplexes would not be built in those areas if parking was not on site.

Smith asked about the proximity of the duplexes within a small neighborhood with smaller streets.

Scanlan said it would be related to the ability to provide adequate public facilities, and not the proximity of a duplex.

Sgambelluri asked about conditional use from the perspective of a resident. She asked what someone should expect if they lived two doors down from a proposed duplex.

Scanlan said that a notice would arrive in the mail, including the description of the request, as well as information about a meeting. Passing the lot, one would also see signs posted in the yard with contact information. If one did not live within three-hundred feet of the proposal, then it would be up to the neighborhood association to disseminate that information.

Sgambelluri asked about neighborhoods that did not have neighborhood associations.

Scanlan replied that there had been projects that had ad hoc neighborhood groups. The UDO was not specific that it had to be a neighborhood association. She said that if Amendment 02 passed, staff would include those ad hoc groups.

Sgambelluri stated that, in the absence of a neighborhood association, a gathering could be convened, or a homeowner could contact the petitioner based on the mailing received.

Scanlan confirmed that was correct, and that they could also contact staff.

Sgambelluri questioned the BZA's ability to make a judgement call on noise and other nuisances prior to knowing who the occupants were.

Scanlan responded that it was rare that there was not an abundance of information about the petition informing staff and the BZA on which to base their decisions.

Rollo asked if it was historically correct that BZA approvals were typically granted if code was met.

Scanlan confirmed that was correct. Staff discussed many more projects with petitioners than those that went to the BZA. She said that staff would let petitioners know if their proposal was not likely to be approved in an effort to be efficient.

Amendment 02 to Ordinance 21-23 (cont'd)

Council questions:

Flaherty asked about conditional use of a duplex, which was approved and met code and included a good faith requirement to address concerns of neighboring property owners. He asked if the BZA had the authority to deny the petition if no good faith effort was made.

Scanlan confirmed that was correct.

Smith questioned if property owners had the right to appeal the BZA's approval.

Mike Rouker, City Attorney, clarified that they would be able to appeal to the Monroe County Circuit Court.

Smith asked for clarification.

Rouker said that a stay could be granted. He said that the property owner would file an action/petition that the BZA did not make a proper finding, or use another legal theory.

Volan asked if there were any cases where a decision by the BZA was overturned by the court.

Rouker said he was not aware of any in Bloomington, but there were cases in other counties. He said he had seen cases where the BZA had denied a petition and the petitioner appealed to the court.

Volan asked if in those cases the BZA's decision had been overturned, and if any were in Monroe County.

Rouker said he had seen BZA decisions upheld and overturned, but not in Monroe County.

Volan reiterated that the petitions that were likely to be approved were sent to the BZA.

Scanlan clarified that any petitioner could take a proposal to the BZA, but that staff preferred to be up front with the petitioner about the proposal. She said that typically, if a petitioner did not believe their proposal would be approved, they would not file.

Volan asked if the number of pre-submittal meetings, and then submitted proposals to the BZA, were tracked.

Scanlan said it was not tracked, and explained the process.

Smith asked who was informed about the BZA's decision.

Scanlan said that a letter with the findings of fact and decision was sent to the petitioner.

Smith wondered if the notification included information about appealing.

Scanlan said a petitioner would typically only appeal if their proposal was denied.

Smith asked if there was a way to include that information in the notice.

Scanlan said that communication from staff continued after the notice, and staff provided the petitioner with options.

Rouker said that there had been many types of appeals, not just in the conditional use context, and frequently there were lawyers involved who knew how to appeal.

Scanlan added that information on how to appeal was included in the Administrative Manual in the UDO.

Sandberg asked if duplexes provided housing for a mix of incomes.

Piedmont-Smith referenced the two policies from the Comprehensive Plan. She explained that it focused on different price-points and diversity of housing types.

Sandberg asked about household income levels and affordability. Piedmont-Smith responded that duplexes, by nature, were half the size of a single family home, and would have a lower price for renting or buying.

Amendment 02 to Ordinance 21-23 (*cont'd*)

Council questions:

Sgambelluri asked about petitions that were approved by the BZA, and a neighbor wanting to appeal that approval.

Rouker said it was on a case-by-case basis, and there had been cases in Indiana where neighbors had legal standing.

Sgambelluri asked if the appeal was at the neighbors' expense. Rouker confirmed that it was.

Sarah Mosier supported Amendment 02 and duplexes.

Public comment:

Jessika Griffin spoke in support of Amendment 02 and plexes as conditional.

Jim Rosenbarger discussed the BZA approval process and the Comprehensive Plan. He supported caps for plexes.

Janet Sorby commented on concerns with parking and plexes.

Anna Maria Mecca spoke about plexes, neighborhood meetings, and diversity in housing, and against Amendment 02.

Dave Warren thanked staff and spoke in support of Amendment 02.

Cathi Crabtree supported duplexes and provided reasons why.

Peter Dorfman spoke about permitted, conditional, and by right uses of plexes and against plexes in neighborhoods.

Andrew Guenther spoke about the cost of homes, and renting, and in favor of plexes.

David Keppel commented on sustainable housing, and his support for Amendment 02.

Greg Alexander spoke about problems with conditional use and in favor of duplexes.

Matthew Klauss supported Amendment 02 and commented that the BZA could require union labor, and on parking.

Ed Bernstein discussed conditional use, caps, parking, and against plexes.

Wendy Bernstein commented on the rhetoric of council meetings, the generational divide, and strengthening Amendment 02 and conditional use.

Cory Ray spoke in support of Amendment 02 and thanked staff and council for listening to public input.

Chris Sturbaum conditionally supported Amendment 02 and said that conditional use was ideal. He commented on the BZA process.

Jean Simonian did not have faith in the conditional use, and the BZA, processes.

Richard Lewis spoke in favor of Amendment 02 and thanked council.

Amendment 02 to Ordinance 21-23(cont'd)

Leslie Skooglund supported duplexes in core neighborhoods and Amendment 02. She commented on affordable housing, and her experience as a social worker in Bloomington.

Public comment:

Rachel Fleischmann spoke in support of Amendment 02 and commented on renting, affordable housing, and equity.

Doug Moore commented on sanitation truck requirements and parking.

Sarah Waters discussed the affordable housing crisis, and the regressive comments by some members of the public regarding housing.

Cynthia Bretheim spoke about parking concerns, and noise nuisances in neighborhoods. She commented on plexes and covenants.

Michelle Henderson supported Amendment 02 but said it did not go far enough regarding affordable housing.

Barbara Moss said the real issue was affordable housing and upzoning was not ideal. She spoke about home ownership and interest rates and that Amendment 02 did was not strong.

Richard Durson commented that opening housing up to the free market was not good, and affordability was needed and conditional use needed to be more stringent.

Jerrett Alexander supported Amendment 02 and favored by-right.

Wendy Bricht spoke about housing and affordability, and renting and market pressures.

Rob Schneider said that plexes did not lead to affordability. He discussed caps on the experiment of plexes.

Joe Lee said stringent conditions were necessary for plexes.

Karen Duffy supported Amendment 02 and commented on the cooperative housing in the Near Westside Neighborhood.

Stephen Layman said that Amendment 02 would not make a difference and was too vague. He spoke about density and infrastructure.

Mara-Lea Rosenbarger commented that the process for plexes and upzoning had been rushed. She commented on climate change and housing.

Jami Scholl spoke about leadership and supported density and caps. She said Amendment 02 did not go far enough.

Andy Ruff said that Amendment 02 was not a compromise. He discussed ways to implement stringent conditions.

Deborah Myerson supported Amendment 02 as a compromise. She said that density was needed and current zoning limited areas to single family homes which was inequitable.
Jean Linen discussed conditional use and said it was worth considering.

Amendment 02 to Ordinance 21-23(cont'd)

Public comment:

Russ Skibo spoke against plexes and upzoning, and about housing affordability and home ownership.

Vauhxx Booker thanked the Planning Department, the engaged public, and council. He commented that most in opposition to plexes had been in their homes for decades, and that times had changed.

Victoria Witty said that conditional use was better than nothing, but that the BZA needed more specific criteria to consider. She spoke in favor of caps and against plexes.

Heather Lacy, Deputy Council Attorney/Administrator, read the following comments submitted via Zoom chat.

- Ramsey Harik remained silent on Amendment 02 so as to draw Piedmont-Smith's attention.
- Dave Stewart commented against Amendment 02 and plexes in core neighborhoods.
- Linda Stewart also commented against plexes and Amendment 02.
- Betty Rose Nagle urged council to vote against Amendment 02.
- Patrick Steine commented on affordable housing, home ownership, starter homes, and condos.

Tom Millen discussed infrastructure needs with increasing density.

Lacy read a comment submitted via Zoom chat by Carol Handfeld which stated, "No plexes."

Sandberg asked about the process for introducing an amendment to Amendment 02 that was in draft form.

Council comments:

Flaherty said it could be introduced as an amendment to Amendment 02 for consideration. He said it could also be considered as a separate amendment at a later date. There was brief council discussion on amending Amendment 02 or bringing forward an amendment at a future meeting.

Rollo said that he would support Amendment 02 because it was incrementally better. He commented that all proposals that met code were approved.

Sims commented on the housing crisis in Bloomington and that Amendment 02 was a middle ground for duplexes. He further commented on the approval process for ADUs, the BZA approval process, and housing affordability. He urged council to pass Amendment 02.

Sandberg spoke about conditional use versus by right, and said she would support Amendment 02. She referenced future amendments to address concerns regarding plexes, parking, and more that she would bring to council for consideration.

Volan discussed the concerns regarding plexes, including parking and an increase in traffic. He said that neighborhood parking zones were the way to control parking issues. Volan commented on ways

to address concerns of those opposed to an increase in density. He also commented on Indiana University and the influx of students.

Amendment 02 to Ordinance 21-23(cont'd)

Smith spoke about conditional use, the housing crisis, affordability with housing, and the need to have control on the free market regarding housing in Bloomington. He commented that the city should spend some federal monies to help community members become homeowners.

Council comments:

Flaherty thanked council, staff, and the public for their input. He commented on compromise, the Comprehensive Plan, and plexes. He said that the best way to add housing was to have permitted use, and by right housing, as was supported by empirical research in the urban planning field. He further commented on restrictions for plexes and said he would support Amendment 02.

Sgambelluri thanked everyone for their feedback. She disagreed that allowing plexes by right was ideal, and preferred conditional permitting, and then adding additional restrictions later, as was discussed that evening. She spoke about the conditional use approval process, outside developers, affordable housing, and concerns about amending the UDO.

Piedmont-Smith said that more housing was necessary in Bloomington, and that allowing duplexes in single family neighborhoods was an incremental step. She commented on reporting requirements, and affordable housing including the hospital site. She said Amendment 02 required proposals to go before the BZA which allowed for the monitoring of plexes in the community.

Rosenbarger thanked everyone for their input, and said she supported by right plexes in neighborhoods and that use-specific standards would address concerns. She commented on housing density, social equity, affordability, and the cost of renting a duplex versus a single family home. She supported Amendment 02.

The motion to adopt Amendment 02 to Ordinance 21-23 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Amendment 02 to Ordinance 21-23 [10:38pm]

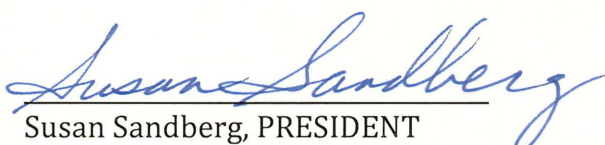
Sims recessed the meeting.


RECESS [10:44pm]

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this 02 day of November, 2022.

APPROVE:

ATTEST:


Susan Sandberg, PRESIDENT
Bloomington Common Council


Nicole Bolden, CLERK
City of Bloomington