

In Bloomington, Indiana on Thursday, May 06, 2021 at 6:30pm, 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 06, 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 [6:32pm]

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 [6:32pm]

Sims summarized the conduct of deliberations.

CONDUCT OF DELIBERATIONS
[6:33pm]

ORDINANCE 21-23 [6:34pm]

Rollo moved and it was seconded to adopt Amendment 03 to Ordinance 21-23. Rollo presented Amendment 03 and referenced that it was Attachment A to ZO-09-21.

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 03 Synopsis: This Amendment is sponsored by Councilmembers Rollo and Sandberg. This Amendment places a 150 foot buffer around a duplex dwelling in the R1, R2, and R3 zoning districts. Additionally, this Amendment provides that the BZA shall approve a maximum of 15 duplex dwellings (newly created or expanded through addition or habitable space) per calendar year. Note: This Amendment was revised after distribution in the Legislative Packet Addendum but before being introduced at the May 6, 2021 Special Session. The revision added a period of 2 years to section (D) Approval; and revised the maximum number of duplexes the BZA shall approve per calendar year to 15 in section (E) Maximum Number.

Amendment 03 to Ordinance 21-23

Sandberg added that the proposal was a major housing policy change and that buffers were a necessary safe-guard.

Council questions:

Jackie Scanlan, Director of Development Services in the Planning and Transportation Department, said that staff was fine with the separation and time limit. She said that staff did not believe caps were necessary.

Flaherty asked if it was correct that the buffer requirement would only apply to new builds or converted homes.
Scanlan confirmed that was correct.

Flaherty asked what happened if someone had a non-conforming use structure and wanted to expand by adding a bedroom.

Scanlan said that if someone had a lawful non-conforming duplex, they would remain lawful. If they wanted to expand, they would have to go through the conditional use process and would be regulated.

Piedmont-Smith asked how the sponsors arrived at fifteen for the cap.

Rollo said it was determined by council and staff as a rough estimate and a moderate number.

Scott Robinson, Director of the Planning and Transportation Department, clarified that staff had looked at the Board of Zoning Appeals (BZA) case load, and that fifteen was a reasonable number.

Amendment 03 to Ordinance 21-23 (cont'd)

Council questions:

Sgambelluri questioned the one hundred and fifty feet buffer because it meant different things in different neighborhoods.

Scanlan stated that staff had discussed having different buffers in different districts based on the average lot width. The buffer was determined as the distance where someone might be disturbed by something their neighbor was doing. She further explained some differences between neighborhoods in Bloomington.

Sgambelluri asked if the next nearest residence was more than one hundred and fifty feet away would be included in the notice.

Scanlan confirmed that was correct because it included properties and not homes.

Volan asked for clarification about the number of petitions that had been filed since the Unified Development Ordinance (UDO) was adopted.

Scanlan had referenced the number of petitions that included duplexes. She said that with the new code, and in districts where duplexes were allowed, some properties became eligible to become duplexes. There were one hundred and seventy eight houses and none had requested to be converted. She explained where those houses were.

Volan presented maps and discussed areas that could have converted to plexes since the previous year, but that there had been no petitions. He discussed allowed uses in residential zones and identified houses that could have been converted to plexes that were not. Volan asked the sponsors for clarity on the presumed urgent problem of plexes.

Rollo said that Volan had picked certain areas for review, and that the pandemic had also affected petitioners. He said that there was a need for a safe guard, and that the cap of fifteen was appropriate.

Volan clarified that he had looked at areas that were primarily student housing, where no one would object to the houses being converted to plexes, yet none had been converted. The number of bedrooms built in 2020 exceeded the previous years including multifamily and single family. That clearly showed that the pandemic did not stop construction.

Rollo said that since plexes were allowed in all residential zones, one could not just analyze one area of the city. It was unknown what would happen and that moving forward, the conversions would be between zero and fifteen with Amendment 03.

Flaherty appreciated the intent of Amendment 03 but was concerned about the inequitable distribution of rights for community members. Zoning created rules that should be applied equally and fairly to all. He explained that there was a perceived first-come, first served process. Those who had the ability and financial means to build a duplex, might be incentivized to convert a home versus a lower income homeowner with less financial means. He said that if someone filed first, another property owner would be denied that same right, which favored those with more capital. He asked if the sponsors were concerned about the equitable distribution of rights, and if it had been discussed with staff.

Sandberg responded that when she and Rollo had initially discussed caps, they had looked at how to make it equitable in neighborhoods. There was not a suitable formula to use and they discussed how they arrived at a single number as a safe guard so as to not saturate core neighborhoods that needed to adjust to the new

code. Sandberg said that there might not be a big rush to make the conversions. She explained that the cap was determined in response to constituent concerns and feedback.

Amendment 03 to Ordinance 21-23 (*cont'd*)

Flaherty said he was more concerned about the buffer than the cap in regards to the inequitable distribution of rights.

Council questions:

Scanlan explained that staff had discussed options, and with the Plan Commission, but that it was difficult to determine due to how Bloomington was laid out. Including the two year criteria, addressed the first-come, first-served concern while also addressing the concern of too many plexes in a neighborhood.

Piedmont-Smith asked about a time limit for construction of a duplex once there was a BZA approval.

Scanlan said that a conditional use approval was for three years.

Ryan Robling, Zoning Planner in the Planning and Transportation Department clarified that it was a two year limit if there was not a building permit.

Piedmont-Smith asked about a limit to building permits.

Scanlan confirmed there was also a limit that was set by the Monroe County Building Department that also allowed extensions. It was typically one year, but there were exceptions.

Rosenbarger questioned if the sponsors of Amendment 03 also consulted with pro-plex community members, along with anti-plex constituents.

Rollo said he rejected the categorization of pro-plex and anti-plex and that he was pro-plex in appropriate areas as determined by the Comprehensive Plan.

Sandberg clarified that they were not against plexes which were acceptable housing forms. Many who reached out to her felt that plexes belonged in neighborhoods outside of the core ones which were already diverse and dense. Constituents had expressed concerns about upzoning. The goal was to make suitable housing.

Rosenbarger asked if the sponsors of Amendment 03 had spoken with residents who wanted plexes in core neighborhoods. She said that talking with individuals who already owned plexes was problematic because they may not want others to have plexes.

Sandberg stated that they had spoken with a robust group of residents and the goal was to provide conditions to alleviate concerns.

Flaherty wondered if the sponsors of Amendment 03, or staff, had a plan for revisiting and reviewing the cap of fifteen, and other factors. He referenced the Accessory Dwelling Unit (ADU) phase-in which mirrored the current conversation.

Sandberg explained that everyone was looking to see how plexes would roll out, and could identify where there were stressors.

Rollo said that there would be reporting every six months to review the numbers and the effects on individual neighborhoods. He spoke about achieving village centers, which was a great opportunity for sustainability.

Flaherty clarified his question and said that he too supported village centers. He stated that he was referring to the caps specifically, and for example, if someone was number sixteen.

Rollo said that person could wait a few months.

Scanlan said that the six month reporting was built into Ordinance 21-23 and included the number of requests, locations, units built, and more. If there were fifteen, staff would report on that. She also commented on village centers which were dictated by commercial and mixed use zoning in the Comprehensive Plan.

Flaherty expressed the importance of considering all the potential outcomes, including the number built and if a homeowner lined up in the queue or waitlist. He referenced his concerns regarding equity for those who had less capital.

Amendment 03 to Ordinance 21-23 (*cont'd*)

Council questions:

Scanlan said that if there was a lot of interest in duplexes that staff would report the details to council and the administration, and the cap could be reviewed then.

Sandberg added that the city could not control who would be doing the conversions to duplexes, and that was why it was important to include safeguards.

Rollo asked for clarification on village centers, housing, and zoning.

Scanlan read the definition of village centers from the Comprehensive Plan. She said it included multifamily and commercial uses which supported the surrounding neighborhood.

Rollo said that higher density would occur at the village centers.

Volan referenced previous discussions about the UDO as a policy that remained in place for several years, but the sponsors of Amendment 03 were now amenable to reviewing caps within six months. He asked how that reconciled.

Sandberg said that once buildings were modified, they could not be reversed. She said that new changes in policy could be adjusted as needed.

Public comment:

Volan said that the sponsors of Amendment 03 were willing to revisit the caps, and should be also willing to revisit the UDO.

Chris Sturbaum spoke about the buffer, ADUs, plexes, and upzoning.

Mark Burnett supported Amendment 03.

Beau Balance strongly supported Amendment 03.

Patricia Foster urged council to pass Amendment 03.

Victoria Hilkevitch expressed her concerns about the caps and buffers as constraining duplexes as conditional use.

Richard Lewis supported Amendment 03.

Janice Sorby spoke in favor of Amendment 03.

Ramsey Harik commented on compromise, conditional use, the BZA process, and upzoning. He urged council to support Amendment 03.

Joe Lee also urged council to vote to pass Amendment 03.

Sita Cohen spoke against plexes and in favor of Amendment 03.

Jim Rosenbarger expressed his support for Amendment 03 and caps.

Cathi Crabtree urged council to vote against Amendment 03.

Dave Warren asked council to not support Amendment 03.

Lori Hoevener urged council to support Amendment 03.

Sarah Kay Helane requested council vote against Amendment 03.

Ed Bernstein supported Amendment.

Amendment 03 to Ordinance 21-23 (*cont'd*)

Public comments:

Wendy Bernstein was offended to be called a racist and classist.
David Hill spoke in favor of Amendment 03.

Daniel Bingham commented in support of plexes and multifamily neighborhoods.

Greg Alexander asked council to vote against Amendment 03.

Renee Miller opposed Amendment 03.

Pam Weaver spoke against Amendment 03, buffer zone, caps, and conditional use.

Greg Rago spoke in favor of Amendment 03.

Patty Ingham commented in favor of Amendment 03.

Jerrett Alexander urged the council to reject Amendment 03.

Jeff Richardson supported Amendment 03.

Jean Simonian summarized an analysis she did on the impact of upzoning properties adjacent to her home.

Jon Lawrence asked council to support Amendment 03.

Kerry Thomson supported Amendment 03.

Andrew Guenther spoke against Amendment 03.

Margaret Clements spoke in favor of Amendment 03.

Tom Millen commented in favor of Amendment 03.

Teal Bingham provided reasons for council to vote against Amendment 03.

Andy Ruff supported Amendment 03 which started to address concerns about plexes.

Rob Schneider commented on the unknown impacts of plexes in core neighborhoods.

Gail Schreiber Weaver provided reasons for her support for Amendment 03.

Steve Acres supported Amendment 03 as a guardrail for duplexes.

Amir Rebuschati supported plexes by right and opposed Amendment 03.

Betty Rose Nagle supported Amendment 03 and provided reasons.

Rachel Fleischman urged council to vote against Amendment 03.

Charles Trazinka supported Amendment 03 and provided reasons.

Kathleen Myers urged council to pass Amendment 03.

Sarah Copper spoke against Amendment 03.

Amendment 03 to Ordinance 21-23 (cont'd)

Sarah Mitchell commented on landlords, Section 8, and neighborhoods.

Public comments:

Jenny Stephens supported Amendment 03.

Eric Ost urged council to adopt Amendment 03.

Diane Jones supported Amendment 03.

Matthew Klauss talked about his opposition to Amendment 03.

Barry Klapper discussed her support for Amendment 03.

Russ Skibo urged council to support Amendment 03.

Wendy Bricht spoke about her experience with housing, student housing, and rentals.

David Keppel commented on needed housing patterns, density, diversity, and the addition of duplexes favored that path.

Cynthia Brethiem urged council to approve Amendment 03.

Brian DeLong opposed Amendment 03 and provided reasons.

Solomon Bogdanoff supported Amendment 03 as a start.

Peter Bogdanoff commented against plexes and against councilmembers in favor of plexes.

Steve Layman spoke in favor of Amendment 03.

Patrick Siney discussed support for Amendment 03.

Heather Lacy, Deputy Attorney, read the following comments that were submitted via Zoom chat:

- Daryl Hayle supported Amendment 03.
- Julia Livingston also supported Amendment 03.
- Ann Kreilkamp commented in favor of Amendment 03.
- David Lawler strongly supported Amendment 03.
- Carlen Greese opposed the actions of council that week.
- David Fisher supported Amendment 03.
- Gabriel Price implored the council to vote in favor of Amendment 03.
- Richard Dursen supported Amendment 03.
- Martha Shedd asked council to support Amendment 03.
- Anna Maria Mecca urged council to vote in favor of Amendment 03.
- John Crushne commented against the buffer.
- Diana Lamb supported Amendment 03.
- Victoria Nelson was in favor of Amendment 03.
- Vita Stanfield urged council to support Amendment 03.
- Daryl Stone commented in favor of Amendment 03.
- Kelly Sax discussed reasons in favor of Amendment 03.
- Janet Stravopolous supported Amendment 03.
- Rebecca Fassman was opposed to Amendment 03.
- Ann Stephenson supported Amendment 03.
- Sara Jones was in support of Amendment 03.
- Kathleen Sideli strongly supported Amendment 03.

- Annette [unknown] commented in favor of Amendment 03.
- Ollette Linenstroff asked council to support Amendment 03.
- EMNSDOR urged council to pass Amendment 03.
- David Stewart asked council to pass Amendment 03.
- Sandra Takarski supported Amendment 03.
- Linda Stewart commented in favor of Amendment 03.
- J.A. Klein was in support of Amendment 03.
- Patrick Murray supported Amendment 03.
- Michael McLafferty commented in favor of Amendment 03.
- Margaret Pea supported Amendment 03.
- Drew Meadows asked council to vote for Amendment 03.
- Barbara Moss urged council to vote for Amendment 03.
- Tim Kennedy supported Amendment 03.
- Constance Glenn asked council to vote for Amendment 03.
- Jack Horton supported Amendment 03.
- Perry Hodges commented against plexes.
- Bess [unknown last name] supported Amendment 03.
- Derek Richey commented in favor of Amendment 03.
- Jamie Sholl supported Amendment 03.
- Karen Duffy asked council to support Amendment 03.
- Deborah Piston commented in support of Amendment 03.
- Marcia Baron urged council to pass Amendment 03.
- Herbert Marks supported Amendment 03.
- Stella Hooker Klauss urged council to support Amendment 03.

Amendment 03 to Ordinance 21-23 (*cont'd*)

Public comments:

Flaherty commented on concerns about the buffer zone and asked if information about the buffer could be included in the six month report.

Council comments:

Scanlan confirmed that information would be tracked and included in the report.

Rollo thanked council and Robinson. He said that council was considering a massive change in zoning policy that affected every neighborhood in Bloomington. There were unknown outcomes and a historical precedence for upzoning that should give caution. There were strong profit incentives for converting homes to duplexes and Amendment 03 provided a safe guard against probable harm, and allowed for the observation of impacts. He asked council to support Amendment 03.

Flaherty appreciated the input from members of the public. There were concerns regarding Amendment 03 and there were different point of views between differing socioeconomic status community members. Compromising added value to the process, and conditional use and duplexes provided additional housing, as prescribed in the Comprehensive Plan. The idea of safeguards was based on the assumption that duplexes were bad. He iterated that the restrictions on duplexes were not imposed on single family homes. He would support Amendment 03.

Smith said that Amendment 03 was good and it did not stop the development of duplexes. It put controls in place to measure and gauge the change in policy. He thanked Rollo and Sandberg for their work on Amendment 03, and commented on the public input and thanked the public speaker.

Rosenbarger thanked everyone involved in the debate. She struggled with Amendment 03 beings a compromise because a compromise had already been attained by changing policy from

allowing all plexes by right, to only conditional use duplexes. She commented on what was really a compromise. Conditional use was not the same as by right and referred to ADUs. The first come, first serve buffer was difficult to accept, and could pit neighbors against each other. She referenced Volan's presentation on the lack of duplexes built in a highly, student-oriented area. She was undecided on her support of Amendment 03.

Amendment 03 to Ordinance 21-23 (*cont'd*)

Council comments:

Sgambelluri commented on the cap, which covered all R1, R2, and R3 areas and did not set a cap for each individual area, which could lead to a concentration of duplexes in the areas with the greatest profit potential. That led her to prefer a more cautious cap though she would compromise for fifteen. She said that if Ordinance 21-23 passed, that it was a significant change in zoning policy and needed to be monitored. She referenced community members' concerns and commented on the cap. She would support Amendment 03.

Volan spoke about the data on conversions to plexes in student housing areas of Bloomington. The conversion to plexes had been allowed for one year, but not one homeowner had converted a house to a quadplex. He questioned the argument that the developers were greedy and eager to convert to plexes. He said that rents had never been higher yet hundreds, or thousands, of new units were needed. He further commented on the deregulation of housing in April 2020 and said that it was incredibly challenging to build missing middle housing. He said that those in favor of Amendment 03 based their support on irrational anecdotes. He commented on those selling their homes to landlords versus homeowner occupied.

Piedmont-Smith opposed Amendment 03 because it added arbitrary and inequitable limits on duplexes in residential neighborhoods. Additional criteria could be added to improve the conditional use process. She said that she was motivated by what was in the best, long-term interest of Bloomington, and that adding housing density was the best thing to do. Adding housing reduced greenhouse gas emissions in the transportation and energy sectors. Affordable housing incentives still needed to be addressed. Piedmont-Smith listened to her constituents and reiterated that there were many that she had not heard from. She commented on her goals and ideals, and said a priority in her campaign for election had been sustainability and climate action. She would vote against Amendment 03.

Sandberg thanked the public for their engagement and said that public service was hard. She expressed pride in the process of public input and said she was grateful to be a public servant.

Sims thanked the sponsors of Amendment 03, and said that compromise was involved in the process. He commented on compromise and the middle ground. He also commented on the concerns of the members of the public including overdevelopment and outside developers. The bottom line was to increase the housing inventory.

Rollo respected Piedmont-Smith's concern about climate change and said that density may not be the solution. He said that if students occupied plexes, in core neighborhoods, and left the highest density, high-rise buildings, it would promote families to flee to the suburbs, which lowered density. He also commented that

the areas that Volan referred to were already dense, including five-person rentals that were grandfathered in.

Smith thanked Sims, Lacy, and everyone who spoke.

Amendment 03 to Ordinance 21-23 (*cont'd*)

Volan commented on Smallwood and said housing density was relative. He lamented that his constituents in District 6 were discounted because they were students.

The motion to adopt Amendment 03 to Ordinance 21-23 received a roll call vote of Ayes: 7, Nays: 2 (Volan, Piedmont-Smith), Abstain: 0.

Vote to adopt Amendment 03 to Ordinance 21-23 [10:48pm]

Sims called a Special Session on May 12, 2021 at 6:30pm and on May 13, 2021 at 6:30pm, if needed.

COUNCIL SCHEDULE [10:57pm]

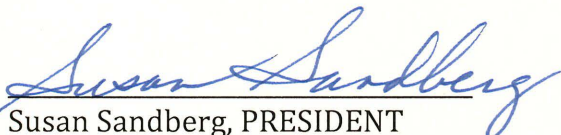
Volan moved and it was seconded to recess the meeting. The motion was approved by unanimous consent.


RECESS [10:50pm]

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