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TOWN OF BURLINGTON

Conservation Commission Meeting Minutes

DEPT. /BOARD: Conservation Commission

DATE: 5/11/2023

TIME: 6:30 PM

PLACE: 29 Center Street – Town Hall – 2nd Floor Main Hearing Room

Member(s) in attendance: Larry Cohen, Ed LoTurco, Kent Moffatt, Rob Sheehan (in person) William Boivin, Indra Deb (online).

Member(s) absent:

Conservation Administrator John Keeley and Assistant Conservation Administrator Eileen Coleman were also present.

THE MEETING WAS BROADCAST LIVE ON THE BCAT GOVERNMENT CHANNEL

Approved at the May 25, 2023 Conservation Commission meeting

1. Call Meeting to Order – Roll call of attendance

Mr. Cohen called the meeting to order at 6:30 PM and read a statement about public participation and technology. On a Roll Call, Mr. Moffatt, Mr. Sheehan, Mr. Deb, Mr. Boivin, and Mr. LoTurco indicated that they were present, as was Chairman Mr. Cohen.

6. Continued Public Hearing – Notice of Intent – 78 Mountain Road – Kenneth Gillis – Construct new residential dwelling – DEP #122-687

MOTION- To continue the hearing until the 5/25/2023 meeting of the Commission. Mr. Sheehan voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously with a vote of 6-0-0.

2. Public Participation (for items not on the agenda)

There were no comments from the audience regarding items not on the agenda.

3. Approval of Minutes –



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MOTION- To approve the Minutes of the 4/27/2023 meeting of the Commission. Mr. Sheehan voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously with a vote of 6-0-0.

MOTION- To approve the Minutes of the Climate Change Resiliency subcommittee meeting on 5/03/2023. Mr. Sheehan voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Abstain, Mr. LoTurco voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously with a vote of 5-0-1.

4. Discussion: Burlington Community Design Workshop for Mall Road Rezoning Initiative – Melisa Tintocalis

Ms. Tintocalis, the Economic Director for the Town of Burlington, was present and spoke to the Commission about certain economic objectives including land use and zoning policies.

Specifically she spoke about a plan to increase walkability in the Mall Road section of Burlington. She mentioned that there are about 100 acres of mostly paved parking area that is able to be developed, but certain zoning restrictions do not allow for such development. She invited the Commission and anyone interested in the project to go to the May 23-24th design workshop to give input about potential future plans. The workshop will take place in person at 25 Mall Road at 6:30pm and will feature multiple stakeholders that are part of the development project.

Additional information on the project can be found [here](#).

5. Request for Determination of Applicability

a. 7 Laurel Hill Lane – Marc Lorusso – Cut trees. Mr. Marc Lorusso was present and explained his reasoning to remove several trees due to safety concerns. The applicant proposed to cut 6 trees at 7 Laurel Hill Lane (two large white pine, one at each back corner, 2 hardwoods right rear, and one oak and one pine close to the deck), all in the buffer zone to bordering vegetated wetlands (BVW) and in the Riverfront Area. The closest trees to be cut were approx. 110 feet from the Brook. The project also included cutting several other trees, many of which were Norway maples, along the driveway, several of which were in the outer Riverfront Area.

Mr. Keeley explained that the trees in question are roughly 110' from the adjacent outer riparian riverfront area. He agreed that some of the trees are in poor condition and suggested that certain



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trees on a slope in the backyard not have their stumps ground to try to minimize the integrity of the slope and avoid erosion damage.

Ms. Coleman read the draft decision, Applicants may proceed with tree removals. Removal of any other trees beyond those permitted by this decision will require additional approval from the Commission or Conservation Administrator and may require submission of a written assessment by a certified arborist that they pose a hazard or are in significant decline. For tree trimming or removals that are not feasible to do by hand, machinery, such as a bucket truck or crane, shall be located in the driveway as shown in the accompanying plan. The applicant is encouraged to leave snags where feasible for wildlife habitat. A minimum of 3 native trees/shrubs shall be planted in the buffer zone to BVW/Riverfront Area. Trees shall be native (non-cultivar) species and shall be pre-approved by the Conservation department prior to purchase.

MOTION- To issue a Negative Conditional Determination for the project at 7 Laurel Hill Lane under Burlington Bylaw Article XIV and the state Wetlands Protection Act. Mr. Sheehan voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously with a vote of 6-0-0.

b. 10 Marjorie Road – Sean Damasso – Cut trees

Mr. Damasso of 10 Marjorie Road was present to explain that he wants to remove some trees on his property for safety reasons.

Mr. Keeley explained that there is a wetland area about 80' behind the house, and some of the trees in question are within the 20' no disturb zone. He suggested that the Commission conduct another site inspection and select which trees may be removed and which shall remain.

Mr. Boivin expressed concern with the initial request for 15 trees to be taken down as not all of the trees in question seem to be in poor condition. He also reminded the Commission that there is evidence of mowing and landscape dumping taking place in the wetland area beyond a demarcation line, which should be discouraged.

c. 17 Barbara Circle – Richard & Wendy Czerwinski – Repair & extend deck

Mr. and Mrs. Czerwinski were present to speak with the Commission and describe the reasons for rebuilding their deck. The applicants proposed to repair an existing deck and extend it to 16'



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by 20'. Work would require 6 poured concrete footings and an approximate 4' by 4' concrete stair pad.

The work will be located within bordering land subject to flooding (BLSF), aka the FEMA 100-year floodplain, approximately 20 feet from a Bordering Vegetated Wetland (BVW), and the riverfront area (20 feet from a regulatory stream and 140 feet from Longmeadow Brook). The applicants stated that their contractor suggested 6 posts for the deck footing that would be 10" in diameter and 40" deep.

MOTION- To issue a waiver for the 40' no build zone for the project at 17 Barbara Circle. Mr. Sheehan voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously with a vote of 6-0-0.

MOTION- To issue a Negative Conditional Determination for the project at 17 Barbara Circle under Burlington Bylaw Article XIV and the state Wetlands Protection Act. Mr. Sheehan voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously with a vote of 6-0-0.

d. 3 Burlington Woods Drive – GI ETS Burlington 1 LLC – Install water quality device and utilities

Mr. Liam Feeney of Bohler Engineering and Bo Pierce of Leggat McCall Properties were present to discuss the project with the Commission.

The work being considered tonight is a portion of a larger project* involving the installation of a gas service, partially outside of the existing limit of pavement, and of a water quality unit ~82 feet from Bordering Vegetated Wetland.

The larger proposed project involves a renovation of the existing office building for a lab and office use, reconfiguration of the loading dock and compactor pad, installation of a proprietary water quality inlet, an upgraded gas service and electrical infrastructure including equipment pads and associated conduit, removal of existing parking spaces (either converted to green space or cross striped), installation of additional landscaped islands, installing new ADA parking spaces with sidewalk, ramps and crosswalks.

Mr. Keeley outlined the conditions that included removing debris from an outfall pipe.



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MOTION- To issue a Negative Conditional Determination for the project at 3 Burlington Woods Drive under Burlington Bylaw Article XIV and the state Wetlands Protection Act. Mr. Sheehan voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously with a vote of 6-0-0.

7. Continued Public Hearing – Request for Amendment to Order of Conditions/Wetland Bylaw – The District – NEEP Investors Holdings LLC, c/o National Development – DEP #122-537

Ms. Aisling Kerr, Project Manager with National Development on behalf of NEEP Investor Holdings and Eric Gerade, Civil Engineer with VHB were present to speak with the Commission.

The proposed project consists of construction of two new life science/laboratory buildings (456,000 square foot building area), construction of a new parking garage, stormwater improvements, pavement removal, expansion of the existing walking trail and landscaping. Work will occur within the 100-foot inner riparian zone and the 200-foot Riverfront Area of Vine Brook and within the 100-foot buffer zone to bordering vegetated wetlands, and Bordering Land Subject to Flooding (1% flood zone). This is part of the overall District Master Plan, which includes three six-story buildings with dedicated lab space, two parking garages and plazas.

MOTION- To close the hearing for the amended Order of Conditions for DEP#122-537. Mr. Sheehan voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously with a vote of 6-0-0.

MOTION- To approve the Amendment to the Order of Conditions for DEP#122-537. Mr. Sheehan voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously with a vote of 6-0-0.

8. Continued Public Hearing – Notice of Intent – 1200 & 1700 District Avenue – NEEP Investors Holdings LLC, c/o National Development – Construct new lab building & parking garage and make improvements to landscape and utilities – DEP #122-686



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Ms. Aisling Kerr, Project Manager with National Development on behalf of NEEP Investor Holdings and Eric Gerade, Civil Engineer with VHB were present to speak with the Commission.

The proposed project consists of construction of two new life science/laboratory buildings (456,000sf building area), construction of a new parking garage, stormwater improvements, pavement removal, expansion of the existing walking trail and landscaping. Work will occur within the 100-foot inner riparian zone and the 200-foot Riverfront Area of Vine Brook and within the 100-foot buffer zone to bordering vegetated wetlands, and Bordering Land Subject to Flooding (1% floodzone). This is part of the overall District Master Plan, which includes three six-story buildings with dedicated lab space, two parking garages and plazas.

Wetland Values and Areas Subject to Protection: The proposed work was within the 100-foot buffer zone to bordering vegetated wetlands (BVW) and within the inner 100 foot Riverfront Area to Vine Brook. The closest point of a proposed new building was approximately 78 feet from the bank of Vine Brook. The closest existing building within the area proposed for redevelopment under this Notice of Intent was 68 feet from the stream. Work occurring within or in close proximity to resource areas can generate adverse impacts to those areas.

Approximately 93,000 sq ft of the 814,100 sq ft (18.7 acre) of The District project is within the Riverfront Area. This is a redevelopment project and most of the site is currently paved or built. After development, impervious area within the limit of work will be decreased by approximately 10,000 square feet and the buildings will be further from the stream bank than the existing buildings.

There is a \$20,000 bond for the project.

Mr. Keeley did not have any issues with the project and agreed when Mr. Cohen asked if the project would be an improvement to handling stormwater.

None of the Commissioners had any issues with the project, nor did anyone in the audience virtually or in person.

Ms. Coleman read the draft decisions which included the disallowing of excavating, altering, or changing a resource area or buffer zone and the installation of sediment barriers, among others that were made available to the applicant.



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The Commission is proposing the installation of signs along the neighboring stream to forbid snow storage in the area.

MOTION- To close the hearing for DEP#122-686. Mr. Sheehan voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously with a vote of 6-0-0.

MOTION- To adopt the findings under Burlington Bylaw Article XIV for DEP#122-686. Mr. Sheehan voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously with a vote of 6-0-0.

MOTION- To issue Order of Conditions for DEP#122-686 under Burlington Bylaw Article XIV and the state Wetlands Protection Act. Mr. Sheehan voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously with a vote of 6-0-0.

MOTION- To require the posting of \$20,000 surety for DEP#122-686 under the authority of Burlington Bylaw Article XIV. Mr. Sheehan voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously with a vote of 6-0-0.

9. Continued Public Hearing – Notice of Intent – 41 Burlington Mall Road – Beth Israel Lahey Health – Construct new driveway – DEP #122-688

Mr. David Robinson, Project Manager with Allen & Major Associates was present and shared with the Committee a response package to address concerns from the Commission at the previous hearing. The response includes more documentation on TSS removal for the on line water quality units and a revision in the design to reflect a more traditional catch basin system which will remove 25% of TSS.

He stated that after reviewing the request for a rain garden that it would not be feasible given the utilities such as encased concrete duct banks on the site.

In response to the Commission's request for detail on the final discharge location of stormwater captured in the project area, Mr. Robinson stated that the stormwater flows into an existing closed pipe system that flows north toward Burlington Mall Road. The stormwater eventually discharges into a 30" drainage pipe located within the tree line at the corner of Mall Road and Loop Road at the bank of Vine Brook.



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The project has been updated to include *Hypericum kalmianum* which is a native plant species instead of the original proposal to use a native cultivar species, *Ilex glabra* "shamrock".

Mr. Keeley read the draft decision and highlighted some of the conditions which included a \$5,000 surety and requirement to use erosion control as well as a number of other standard conditions.

MOTION- To close the hearing for DEP#122-688. Mr. Sheehan voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously with a vote of 6-0-0.

MOTION- To adopt the findings under Burlington Bylaw Article XIV for DEP#122-688. Mr. Sheehan voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously with a vote of 6-0-0.

MOTION- To adopt the Order of Conditions for DEP#122-688 under Burlington Bylaw Article XIV and the state Wetlands Protection Act. Mr. Sheehan voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously with a vote of 6-0-0.

MOTION- To require the posting of \$5,000 surety for DEP#122-688 under the authority of Burlington Bylaw Article XIV. Mr. Sheehan voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously with a vote of 6-0-0.

10. Administration

a. Mr. Keeley updated the Commission on a minor change to Planning Board comments

b. Subcommittee & staff reports and updates: Ms. Coleman updated the Commission on a proposal by the landscaper for the project at 127 Bedford Street to make a minor change to straighten a wall on the site. None of the Commissioners had any concerns about the proposal.

c. Other business included a letter drafted describing a vernal pool near the Fox Hill School and that the first 100' away from the bank is considered vernal pool habitat and the next 100' is considered the buffer zone. He suggested the notice will be beneficial to the School Committee before the proposed rebuilding of the Fox Hill School.



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MOTION- To formalize the draft document and send a note to Chair Simon and the School Committee concerning the vernal pool at the Fox Hill School site. Mr. Sheehan voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously with a vote of 6-0-0.

Mr. Boivin mentioned that there will be a virtual community forum on the Fox Hill School project on Thursday May 18th at 7:00pm.

Mr. Boivin gave a brief summary of the items at Town Meeting that are relevant to the Conservation Commission which included the requirement of a running list of municipal properties that need stormwater improvements, the annual drainage repair and stream cleaning funding, the decision to put a dog pound on Great Meadow Road, and the upgrades and energy conservation measures, as well as a nonbinding resolution for Town Meeting to vote on expressing support for the Burlington Sustainability and Resilience Action Planning Project.

d. Upcoming meetings: May 25, 2023 | June 8, 2023

11. Adjourn

MOTION- To adjourn the meeting. Mr. Sheehan voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously with a vote of 6-0-0.

Respectfully Submitted by Tom Prior, Recording Clerk.