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TOWN OF BURLINGTON

Meeting Minutes

DEPT. /BOARD: Conservation Commission

DATE: September 8, 2022

TIME: 7:00 PM

PLACE: 29 Center Street – Town Hall – 2nd Floor Main Hearing Room. This meeting is being held in person, with the option of joining virtually through Cisco Webex.

MEMBERS IN ATTENDANCE: Chairman Larry Cohen, William Boivin, Kent Moffatt, Ed LoTurco (online), Indra Deb (online)

MEMBER(S) MISSING: Jennifer O’Riorden.

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

Approved at the October 13, 2022 Conservation Commission meeting

1. Call Meeting to Order – Roll call of attendance

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

Member(s) absent: Jennifer O’Riorden,

Conservation Administrator John Keeley and Assistant Administrator Eileen Coleman were both in attendance.

2. Public Participation

There was no one in the audience for Public Participation (fka Citizens’ Time).

3. Approval of Minutes

MOTION: To approve the Minutes for the August 11, 2022, meeting of the Commission. Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffat voted Abstain, Mr. Cohen voted Yes. The Motion passed with a vote of 5-0-1.

4. Request for Emergency Certification – Town of Burlington DPW – Burlington Mall Road culvert lining

Tom Hayes, the Town Engineer for Burlington, was present to explain the project. A sinkhole formed in May 2022 over the culvert and a 10” water line which resulted in the pipe being compromised and in need of replacement. Work will be done underground to replace the pipe and will involve using sandbags as a barrier to the nearby Long Meadow Brook to prevent sediment runoff. Mr. Keeley suggested the catch basin near the project site be cleaned prior to



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and after the work is completed and send the flow through filter bags before passing into catchbasins.

MOTION: To approve the Request for Emergency Certification. Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffat voted Yes, Mr. Cohen voted Yes. The Motion passed with a vote of 6-0-0.

5. Request for Determination of Applicability

a. 174 Winn Street – Sonny Ferrante – Demolish single-family dwelling & construct new single-family dwelling (continued from June 9 and August 11, 2022)

Mary Trudeau was in attendance and spoke on behalf of the project and homeowner. The homeowner agreed to move the location of the house 10' closer to the roadway as suggested by the Commission previously. The homeowner also agreed to the request by the Commission that a permanent demarcation be constructed on the property to show a permanent limit of work line. The plan also includes the removal of several abandoned cars and the planting of native shrubs in the newly open space. The homeowner also agreed to the request by the Commission to have the Board of Health sample the soil for any contamination from the abandoned cars.

A discussion ensued regarding the removal of the vehicles and whether the document should contain language that a representative from the Conservation staff be present when the vehicles are removed in case further remediation is necessary and the Board of Health be notified.

MOTION: To approve a Negative Conditional Determination under Burlington Bylaw Article XIV and the state Wetlands Protection Act for the project at 174 Winn Street. Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffat voted Yes, Mr. Cohen voted Yes. The Motion passed with a vote of 6-0-0.

b. 1 Elizabeth Avenue – Stefanie Hamel – Clear, grade, enclose deck.

Mr. Chris Hamel was in attendance virtually to speak on behalf of the project. He explained the reason for the project is to remove five trees so his children can have a larger area of yard to play in. The project will involve the removal of some trees that are near the house and the removal of two large trees that leave litter in the yard. The plan also calls for the leveling of some of the yard to make it more even.

Mr. Keeley explained the trees to be removed behind the house are a mix of Norway Maple and Ash which had damage, so he saw no reason to object to their removal. The two trees on the side of the house are Colorado Spruce and are not located near the adjacent wetland. He expressed concern about the lack of detail regarding the leveling of the property. He stated that the original Order of Conditions when the home was built conditioned that any more work on the site would require a Notice of Intent (NOI) to be filed. Even if the Commission decides to issue a waiver for an NOI, he suggested the Commission require further information regarding the grading.



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Several of the Commissioners agreed with the concerns laid out by Mr. Keeley. Mr. Cohen asked if the removal of the trees would cause too much sunlight to penetrate the wetlands, to which Mr. Keeley responded that there were enough trees in the area to allow for sufficient shading of the wetland. Mr. Keeley clarified that Norway Maples are listed as an invasive species by the state of Massachusetts and are not permitted to be sold nor planted anymore, so their removal is not a problem.

The Commission did not have major concerns about the removal of trees but required more information regarding the scope of the grading process for the yard.

MOTION: To continue the Request for Determination of Applicability hearing for the project at 1 Elizabeth Avenue until the September 22 meeting of the Commission. Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffat voted Yes, Mr. Cohen voted Yes. The Motion passed with a vote of 6-0-0.

c. 4 Morrison Road – Avatar Construction – Demolish single-family dwelling & construct new single-family dwelling

Three individuals from Avatar Construction were present to speak on behalf of the project, Robert Paccione, Nazar Vincent, and James Patnaude. Mr. Paccione explained the scope of the project and how there is a section of the garage that lies approximately 184' from the brook, which violates the 200' setback.

Ms. Coleman explained that the project violates the riverfront bylaw and during tear down and rebuild projects such as this one there would need to be a detailed plan on how stormwater runoff will be handled. The proposed new dwelling would be roughly 10' closer to the riverfront area than the current dwelling. There was a conversation regarding the grading of the driveway and where runoff would drain. It was explained that some of the runoff would be onto the grass, and some would runoff into a stormtech drain. Mr. Keeley suggested that when the civil plan is updated to include revised setback measurements that an erosion control line be included in the plan.

None of the Commissioners had any further comments nor concerns.

Ms. Coleman reviewed the documents. The applicant proposed to demolish an existing garage that is within the 200' riverfront area (RFA) to a locally regulated stream and construct a new residence with an attached garage and deck in the RFA. The existing house is outside the RFA, and the new house will be approximately 185' from the stream. The proposed work will be located within the outer 100' of riverfront area of an unnamed brook that is not perennial but is jurisdictional under the Burlington Wetland Bylaw. The Commission regulated the stormwater management of this project and the Determination of Applicability under Burlington's Erosion and Sedimentation Control Bylaw.

Sediment barriers shall be installed around the edge of the worksite including across the frontage at Morrison Road. A 50'x20' stone construction entrance shall be installed; no clearing nor grading is permitted beyond the edge of the existing lawn. A silt sack shall be installed at the



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catch basin at the front of the property and shall be cleaned after each rain event. Demolition materials shall be securely stockpiled and disposed of properly. No filling nor grading beyond what has been approved is permitted on the property, no dumping is permitted in the wetlands, no invasive species are permitted to be planted in Burlington.

MOTION: To issue a Negative Conditional Determination for conditions as discussed for the project at 4 Morrison Road under Burlington Bylaw Article XIV and the state Wetlands Protection Act. Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffat voted Yes, Mr. Cohen voted Yes. The Motion passed with a vote of 6-0-0.

6. Request for Minor Engineering Change – 25 Network Drive – Nordblom Company – Stormwater Permit

Joseph White and Emily Derrig are project engineers working with BSC and representing Nordblom and were in attendance to speak on behalf of the project. The minor change is for a realignment of a driveway, along with some changes to sidewalk and omission and addition of parking spaces. Minor changes to the stormwater and utility infrastructure, specifically moving catch basins, are proposed as part of the changes as well.

Mr. Keeley explained the changes to the stormwater management are minimal, just moving the locations of a couple catch basins and lowering the amount of impervious surface area. The reduction of impervious surface area in the entire project will be approximately 9,000ft². He did not have any concerns about the project.

MOTION: To agree with the application for Minor Engineering Change for the property at 25 Network Drive. Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffat voted Yes, Mr. Cohen voted Yes. The Motion passed with a vote of 6-0-0.

7. Continued Public Hearing – Notice of Intent – 1 Burlington Mall Road – Lincoln Property Group – Construct commercial building – DEP #122-676

Mr. Steven Matarano from Bohler Engineering was present to represent the project that includes the construction of a 95,000ft² lab building on existing parking lot surface. The soil on site was tested to explore the depth of ledge, which was consistent with previous plans from the property. The fill material contained blasted rock which required a change in the construction of the rain garden on the site. Infiltration is not prudent. A rubber liner will be implemented, as well as 2' of treatment media within the rain garden and an underdrain system all underneath the rain garden. Phosphorous will be removed from the rain garden, and water will be intercepted by an underdrain pipe system which will drain to the current outfall.

Mr. Cohen asked about the measure of performance for the rain garden. Mr. Matarano responded that the EPA has a tool to calculate the phosphorous removal which relies on the soil media depth, volume, and number of voids. Based on that tool the anticipated phosphorous removal can be calculated.



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Ms. Coleman reviewed the draft decisions. The proposed project is the construction of a new approximately 35,600 ft² commercial building with associated utilities including parking lots, landscaping, and stormwater management systems. The filing history included several plans some of which were recently revised in response to questions from the previous meeting of the Commission. The stormwater management provides minimal treatment for runoff and the current runoff from the Marriot will remain the same. The proposed project would decrease the amount of impervious surface area by 8,600 ft² and the runoff would pass through deep sump hooded catch basins and two proprietary water treatment units prior to discharging into a bio-retention area. The 35,000 ft² rooftop runoff will discharge to two low profile subsurface infiltration systems. It is estimated that the plan would remove approximately 56% of phosphorous from the soil. The applicant met all the standards of the Burlington Bylaw, and a \$10,000 bond is recommended.

MOTION: To close the hearing for DEP #122-676 Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffat voted Yes, Mr. Cohen voted Yes. The Motion passed with a vote of 6-0-0.

MOTION: To adopt the findings for the project at 1 Burlington Mall Road #122-676 under Burlington Bylaw Article XIV. Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffat voted Yes, Mr. Cohen voted Yes. The Motion passed with a vote of 6-0-0.

MOTION: To approve the Order of Conditions for the project at 1 Burlington Mall Road #122-676 under Burlington Bylaw Article XIV and the state Wetlands Protection Act. Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffat voted Yes, Mr. Cohen voted Yes. The Motion passed with a vote of 6-0-0.

MOTION: To require a performance surety be posted under Burlington Bylaw Article XIV for Road #122-676 in the amount of \$10,000. Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffat voted Yes, Mr. Cohen voted Yes. The Motion passed with a vote of 6-0-0.

8. Discuss & vote: Community Preservation Act (CPA) ballot question

Commissioner William Boivin gave background information on how the CPA ballot question came to be included in the November 2022 ballot. Mr. John Sachs made a presentation seeking the endorsement for the Town Meeting warrant articles to get the CPA onto the November ballot. 13 Boards and Commissions voted in support of the addition of the CPA to the November ballot and Town Meeting did approve the warrant article with a clear majority.

The CPA will create a reliable funding source of over \$2,000,000 per year dedicated exclusively to four program areas: Open Space Preservation, Recreation, Historic Preservation, and Affordable Housing. The CPA funds will come from a 1.5% real estate surtax; our residential tax rate will increase from 1% to 1.015%. The proposed 1.5% increase will also apply to commercial real estate tax rates. The state of Massachusetts will match a percentage of collected funds



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annually, in fiscal year 2021, the percentage rate was 43.8%. The funds from the state come from a Community Preservation Trust Fund which has been collected from every real estate transaction fee from every community in the state since the year 2000.

Mr. Boivin urged the Commission to join him and vote Yes on support of the CPA to be included on the November ballot.

Mr. Ed LoTurco asked if there are any plans to advertise support for the CPA between now and Election Day to remind voters of the measure. Mr. Boivin responded in the affirmative that there will continue to be conversations with Boards and Commissions in town to endorse support for the ballot question initiative.

More information on the CPA ballot initiative can be found on the following websites:

[Community Preservation Act Goes On The November Ballot | Burlington Access TV \(bcattv.org\)](https://www.burlingtonaccess.org/CPA)

<https://www.communitypreservation.org/about>

[Home - YES CPA BURLINGTON](#)

Chairman Cohen iterated that for residents who are concerned about raised taxes there are exemptions for low-income homeowners and moderate-income seniors (homeowners of 60 years of age or older). Mr. Boivin mentioned that the first \$100,000 of property value is exempt from this proposed surcharge. Funds from the CPA will only be distributed through approval from Town Meeting.

Mr. Boivin highlighted the benefits not only to conservation of natural resources but to the preservation of historic buildings in Burlington including the Francis Wyman House, the Burlington Police Department building and the town museum.

MOTION: To endorse the Community Preservation Act (CPA) for a vote of “Yes” on the November 8, 2022, ballot. Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffat voted Yes, Mr. Cohen voted Yes. The Motion passed with a vote of 6-0-0.

9. Administration

Planning Board comments

Subcommittee & staff reports and updates

Other business: Upcoming Town Meeting will be held on Wednesday September 28, 2022.

Upcoming meetings: September 22, 2022, | October 13, 2022



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10. Adjourn

MOTION: To adjourn the September 8, 2022, meeting of the Commission. Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffat voted Yes, Mr. Cohen voted Yes. The Motion passed with a vote of 6-0-0.

Respectfully submitted by Tom Prior, Recording Clerk