



TOWN OF BURLINGTON
PLANNING BOARD MINUTES
JANUARY 6, 2022

RECEIVED

By Town Clerk's Office at 11:42 am, Feb 22, 2022

Members Present: Chair Brenda Rappaport, Vice Chair William Gaffney, Clerk Paul Raymond (Late Arrival), Ernest Covino, Michael Espejo, Barbara G. L'Heureux and Joseph Impemba

Members Absent: None

Staff Present: Planning Director Kristin Kassner; Senior Planner Elizabeth Bonventre, and Principal Clerk Jennifer Gelinis (On WebEx)

1. Call the Planning Board Meeting to Order

Chair Rappaport called the meeting to order at 7:00 PM. Ms. Bonventre called for a roll call: Chair Rappaport replied present, Vice Chair Gaffney replied Present, Member Covino replied present, Member Espejo replied Present, Member Impemba replied present and Member L'Heureux replied present.

Chair Rappaport stated that the Town of Burlington will be holding the January 6, 2022 meeting of the Planning Board as a hybrid meeting due to the expiration of the State of Emergency that was issued due to the Covid-19 virus on March 12, 2020.

Ms. Bonventre stated that the option for remote participation via WebEx is being provided. The public can join the meeting via the WebEx link posted on the Town's website, or they can call in by dialing 617-315-0704. The meeting is being broadcast live on BCAT, and on cable networks and residents can email questions to Planning@burlington.org or on Facebook live.

MOTION - Member Espejo made a motion to take item "7.s" out of order for discussion purposes. The motion was seconded by Member Covino and unanimously voted 6-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L'Heureux voted Yes.

7.s Continued Public Hearing - Application for Approval of a Site Plan – 600 Summit Drive – Jones Lange Lasalle for Millipore, Applicant

MOTION - Member Espejo made a motion to continue this matter to the Planning Board meeting of January 20, 2022 as requested by the Applicant in an email dated January 3, 2022. The motion was seconded by Member Covino and unanimously voted 6-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L'Heureux voted Yes.

MOTION - Member L'Heureux made a motion to take items "7.t" out of order for discussion purposes. The motion was seconded by Member Espejo and unanimously voted 6-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L'Heureux voted Yes.

7.t Continued Public Hearing - Application for Approval of a Site Plan – 15 Adams Street - Senate Construction, Applicant

MOTION - Member L'Heureux made a motion to continue this matter to the Planning Board Meeting of January 20, 2022 as requested by the applicant in an email dated January 3, 2022. The motion was seconded by Member Espejo and unanimously voted 6-0-0. On a roll call vote: Chair Rappaport voted



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Yes, Vice Chair Gaffney voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L'Heureux voted Yes.

2. Citizen's Time

There were no citizen's coming forward.

3. Announcements

Ms. Bonventre read the public hearing announcements. The Sculpture Park Committee will be meeting on January 11th at 8:15 AM via Zoom. The Mall Road & MTP Initiative Second Community Forum will be meeting on January 11th at 7:00 PM via Zoom. The Zoning Bylaw Review Meeting will be meeting on January 12th at 6:30 PM via Zoom. Martin Luther King Day is January 17th and all town offices will be closed. Town Meeting will be January 24th at 7:30 PM the Location TBD.

Member Covino stated that the Transportation Committee is meeting on January 12th at 6:30 PM.

Chair Rappaport stated that TW is on May 9th.

4. Legal Notices of Interest

There were no legal notices.

5. Non-Approvals

There were no non-approvals.

6. Administrative Matters

There were no administrative matters.

7. Matters of Appointment

MOTION - Member L'Heureux made a motion to take items "7.a" and "7.b" together for discussion purposes. The motion was seconded by Member Espejo and unanimously voted 6-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L'Heureux voted Yes.

7.a Continued Public Hearing - Application for Approval of a Special Permit pursuant to 4.2.2.27 "Public Water Distribution Structures" of the Zoning Bylaws – 70 Winter Street – Town of Burlington, DPW, Applicant

7.b Continued Public Hearing - Application for Approval of a Site Plan – 70 Winter Street – Town of Burlington, DPW, Applicant

John Sanchez, DPW Director, Tom Hayes, Town Engineer and Amy Coppers Constino from Wright Pierce appeared for the continued special permit and site plan approval for 70 Winter Street. Mr. Hayes stated that the only change from the last meeting was that a tree box was added for storm water.

Chair Rappaport stated that she watched the last meeting and is up to date and ready to vote on all items.

There were no questions from the audience.



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MOTION - Member Espejo made a motion to close the public hearing on this matter. The motion was seconded by Member L’Heureux and unanimously voted 6-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L’Heureux voted Yes.

Clerk Raymond joined the meeting at 7:13 PM.

MOTION - Member Espejo made a motion to approve the request of The Town of Burlington for Special Permit pursuant to **Section 4.2.2.27 “Public Water & Sewer Distribution Structures,”** of the Zoning Bylaws to allow for the construction of a 5,000 +/- SF addition for the treatment of Per- and Polyfluoroalkyl Substances (PFAS), an ancillary transfer pump, and additional site improvements at **70 Winter Street**, in the **Residential (RO)** zoning district, subject to the terms and conditions contained in exhibit “A” attached. The motion was seconded by Member L’Heureux and unanimously voted 7-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Clerk Raymond, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L’Heureux voted Yes.

MOTION - Member Espejo made a motion to approve the request of The Town of Burlington (“Applicant”) for approval of a Site Plan Application for property located at 70 Winter Street, to permit the construction of a 5,000 +/- SF addition for the treatment of Per- and Polyfluoroalkyl Substances (PFAS), an ancillary transfer pump, and additional site improvements as reflected on the Site Plan entitled “Town of Burlington, Massachusetts Mill Pond Water Treatment PFAS Treatment Systems Contract 2” prepared by Wright-Pierce, dated November 2021, consisting of nine (9) sheets subject to the following revisions, terms, and conditions. The motion was seconded by Member L’Heureux and unanimously voted 7-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L’Heureux voted Yes.

7.c Continued Public Hearing – Petition to amend the Zoning Bylaw, Article II “Definitions”, Article IV “Use Regulations”, Article VIII “Overlay Districts”, Article X “Miscellaneous and Special Regulations” to define and regulate outdoor seating and place making uses

Ms. Tintocalis stated this bylaw addresses outside seating which has become more popular during Covid. This bylaw change mimics the legislation model that the Task Force has been using. This is a streamline process but has controls.

Member L’Heureux stated that she is in favor of outside seating and wants it to continue but she cannot support it as written. This was supposed to be temporary but using outdoor seating for 8 months of the year, every year without coming before the Planning Board is not a good idea. We look for esthetics, parking, pedestrian access and there would be no way for the public to express concerns. Ms. Tintocalis stated that the guidelines were created and approved by the Planning Board and Select Board. Member L’Heureux stated that she is ok with 1 year but then it should be before the Planning Board. When they come before us, then the public can make comments. Member L’Heureux stated that she agrees with having the Task Force approve these on a temporary basis to test the concept before coming before us.

Member Impemba stated that he likes outdoor seating but agrees with Member L’Heureux. Parking can also be an issue. He also agrees that the public needs a forum. If the outside seating is made



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permanent it can double their seating capacity without addressing parking. It can also be a problem if it is next to residents or other businesses.

Clerk Raymond stated that we need to set parameters for timing of outdoor seating. He agrees with Member L'Heureux.

Vice Chair Gaffney stated that he agrees with other members. We are elected to represent the residents and we may have different views than Town employees and Task Force members. He is ok with the Task Force approving the first year, but if they want to keep the outdoor seating then they need to come back before this Board. He also supports outdoor seating. He also noted for the record, that legal counsel is not required to appear before this Board.

Member Espejo stated that our businesses have been decimated by Covid. The staff is scared and there are supply chain issues. If there is any process of making it easier for them to recover and succeed then he is in favor of it. He has faith in the Task Force.

Member Covino stated that our role in this is to recommend to Town Meeting and Town Meeting makes the decision.

Chair Rappaport stated that she believes that they all support outdoor seating and she is in favor of this article. She will represent to Town Meeting the concerns.

Member Impemba stated that it is not just restaurants who have struggled. All businesses are struggling and if the outdoor seating of a restaurant takes away parking of a retail establishment, then it is hurting another business. These businesses should be allowed a forum to speak.

Ms. Tintocalis stated that Economic Development Director, she is looking out for all businesses. This will be an annual permit and if there are problems, they can revoke the permit or not issue it for the following year.

Rick Parker, Town Meeting Member – Mr. Parker stated that he received a lot of calls. Restaurants were hit hard. If not for Federal money some would be closed. The Task Force has been doing a great job. Part of the process is that the land lord needs to sign off on the application. We need to let businesses do whatever is needed for them to succeed and asked the Board not to block this.

Shari Ellis, Town Meeting Member and Chair Zoning Bylaw Review Committee – Ms. Ellis requested that the guidelines for the Task Force be sent to her for the ZBRC meeting next week. If these are annual permits what is the term limit. Ms. Tintocalis replied that if this is approved, the guidelines would be updated and approved by the Planning Board and Select Board. They would have to apply for the permit each year.

Member L'Heureux stated that the pandemic will end but this will be a permanent change.

MOTION - Member Covino made a motion to close the public hearing on this matter. The motion was seconded by Member Espejo and voted 6-1-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Clerk Raymond voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted No, and Member L'Heureux voted Yes.

MOTION - Member Espejo made a motion to recommend **favorably** on the petition to amend the Zoning Bylaw, Article II "Definitions," Article IV "Use Regulations," Article VIII "Overlay Districts," and Article X "Miscellaneous and Special Regulations" to define and regulate outdoor seating and



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place making uses, submitted by the Select Board. The motion was seconded by Member Covino and voted 3-3-1. On a roll call vote: Chair Rappaport abstained from voting, Vice Chair Gaffney voted No, Clerk Raymond voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted No, and Member L'Heureux voted No.

7.d Public Hearing - Application for Approval of an amendment to a Special Permit pursuant to 4.3.2.22 "Drive-through" of the Zoning Bylaws – 28 Winn Street – Moniz Donuts, Inc., Applicant

Mark Wexler of Bohler Engineering appeared for the Special Permit for 28 Winn Street. Ms. Kassner stated that this is a reposted meeting. Ms. Kassner stated that this was voted on November 4, 2021 with a 4-2-0 decision. The Special Permit needs at least 5 in the affirmative. She spoke with Member Espejo and he did support the drive-through but also supported Sgt. McDonough. She spoke with Town Counsel and they stated a member who voted in opposition can bring it back for reconsideration. Mr. Wexler stated that the special permit allows for the 2 ordering points at the drive-thru, cleaning up the driveway and provides more safety and efficiency through the site. Ms. Kassner stated that the Site Plan was approved so the issues that Sgt. McDonough had with the Site Plan, not the Special Permit.

Member Espejo stated that that he agreed with voting no to the Site Plan, but he should have voted yes on the special permit.

Member Impemba stated that the property next door is for sale and it that was added to the site it would solve the employee parking issue. Chair Rappaport stated that we can't hold up this application for something that is not on the table. If they purchased the other property, they could come back and modify their permits.

There were no questions from the audience.

MOTION - Member Espejo made a motion to reconsider the application for approval of an amendment to a Special Permit pursuant to 4.3.2.22 "Drive-through" of the Zoning Bylaws – 28 Winn Street – Moniz Donuts, Inc., Applicant. The motion was seconded by Member Covino and unanimously voted 7-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Clerk Raymond voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L'Heureux voted Yes.

MOTION - Member Covino made a motion to close the public hearing on this matter. The motion was seconded by Member Covino and unanimously voted 7-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Clerk Raymond voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L'Heureux voted Yes.

MOTION - Member Espejo made a motion to approve the request of Lisa Dempsey of Moniz Donuts, Inc. ("Applicant") for Special Permit pursuant to **Section 4.3.2.22, "Drive-through"** of Article IV of the **Town of Burlington Zoning Bylaws**, to permit the expansion of an existing drive-through from one (1) lane to two (2) lanes resulting in two (2) ordering points and increased vehicle queuing, in addition to significant parking lot improvements as outlined in the associated Minor Engineering Change application for property located in the **General Business (BG) District at 28 Winn Street** subject to the terms and conditions contained in exhibit "B" attached. The motion was seconded by



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Member Covino and unanimously voted 7-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Clerk Raymond voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L'Heureux voted Yes.

7.e Continued Public Hearing – Application for Approval of a Definitive Subdivision Plan – 4 Redmond Street – Murray Hills, Incorporated, Applicant

Member Impemba recused himself from this hearing and will not be voting.

David Romero appeared for the continued public hearing for 4 Redmond Street. Mr. Romero stated that they met with the subcommittee and there were some minor changes to the plan as a result of the meeting. The pavement is 20' and there will be a full turnaround.

Chair Rappaport stated that she is not thrilled with the subdivision due to the displacement of wetlands but the waivers make for less disturbance.

Member L'Heureux stated that she agrees with the Chair. The Planning Board cannot deny the subdivision so our hands are tied but we can try to mitigate the damage to the wetlands by approving the waivers. The waivers don't make it better but it will lesson the damage. She is concerned with every piece of property in Burlington is trying to be built on. The neighbors downstream will be affected and we need to protect our resources.

Vice Chair Gaffney asked if all waivers will be approved. Member L'Heureux replied yes, there is no benefit to the Town but we will get some mitigation.

Ms. Kassner stated that we have added conditions that the homeowner's association will be responsible to maintain the drainage system, install 12" trees and discontinue Redmond Street. Ms. Kassner added that if they can meet the subdivision regulations that we can't deny it.

Linda Unsworth of 17 Raymond Road - Ms. Unsworth asked if the DEP concerns have been addressed. Ms. Kassner stated that the Conservation Commission deals with wetlands but they prefer less disturbance. If this gets approved, then DEP reviews the project. The Conservation Commission is waiting for us to decide before they take their final vote. Mr. Romano stated that if we are filling in 5,000 SF of wetlands DEP would be involved. Ms. Unsworth stated that DEP denied this project a few years ago. Ms. Kassner stated that an addition can be added that this must be approved by DEP if required. Ms. Bonventre stated that Eileen Coleman stated that this will be going to DEP for review and asked that Ms. Unsworth send the Conservation Commission any information about a previous denial.

MOTION - Member Covino made a motion to close the public hearing on this matter. The motion was seconded by Member Espejo and unanimously voted 6-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Clerk Raymond voted Yes, Member Covino voted Yes, Member Espejo voted Yes, and Member L'Heureux voted Yes.

MOTION - Member Covino made a motion that Pursuant to Section 2.5 of the Planning Board Rules and Regulations Governing the Subdivision of Land, and pursuant to MGL Chapter 41, Section 81-R, the Planning Board hereby considers the following Waivers requested by the Applicant from the Subdivision Rules and Regulations for the plan entitled "Definitive Subdivision Redmond Street Burlington, Massachusetts" submitted by Murray Hills, LLC, on May 19, 2020, said plan prepared by



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Commonwealth Engineering, Inc. dated January 24, 2020, revised to December 27, 2021, consisting of eight (8) sheets. The motion was seconded by Vice Chair Gaffney and voted 5-0-1. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Clerk Raymond abstained from voting, Member Covino voted Yes, Member Espejo voted Yes, and Member L'Heureux voted Yes.

MOTION - Member Espejo made a motion that Pursuant to Section 2.4 of the Planning Board Subdivision Rules and Regulations, the Planning Board hereby finds that the Definitive Subdivision Plan application submitted by Murray Hills, for the creation of two (2) additional single family dwelling building lots to be a complete and proper submission. The motion was seconded by Member Covino and voted 5-0-1. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Clerk Raymond abstained from voting, Member Covino voted Yes, Member Espejo voted Yes, and Member L'Heureux voted Yes.

MOTION - Member Covino made a motion to approve the Definitive Subdivision Plan entitled, "4 & 5 Redmond Street Definitive Subdivision" submitted by Murray Hills, on May 20, 2020, prepared by Commonwealth Engineering, dated May 14, 2020, and revised to July 22, 2020, consisting of nine (8) sheets to be revised as conditioned herein, reflecting the creation of (2) single family dwelling building lots on Redmond Street, subject to the following terms, revisions, and conditions as amended. The motion was seconded by Member Espejo and voted 5-0-1. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Clerk Raymond abstained from voting, Member Covino voted Yes, Member Espejo voted Yes, and Member L'Heureux voted Yes.

7.f Public Hearing – Application for Approval of a Special Permit pursuant to Section 3.7 “Restaurants” of the 90 Middlesex Turnpike PDD – 92 Middlesex Turnpike – Strega Burlington, LLC, Applicant

Member Impemba rejoined the meeting.

Attorney Mark Vaughn from Reimer and Braunstein and Oliver Munday appeared for a Special Permit for 92 Middlesex Turnpike. Attorney Vaughn stated that this application is for Strega Steakhouse. There will be limited floor plan remodel. The previous restaurant had 314 seats. They are proposing 290 seats including 82 patio seats. This is a reduction of 22 seats. There are no proposed changes in parking.

Chair Rappaport asked if the Woburn restaurant is staying. Mr. Munday replied yes, this will be in addition. Chair Rappaport asked if there is consideration to valet parking because this lot is very tricky because the right-side parking lot is remote and dark. Mr. Munday stated that they can look at it.

Member L'Heureux agreed with the valet parking for the remote parking lot. Member L'Heureux asked if the outdoor seating is upstairs only. Mr. Munday replied no, the outside seating is upstairs and downstairs.

There were no questions from the audience.

MOTION - Member L'Heureux made a motion to close the public hearing on this matter. The motion was seconded by Member Covino and unanimously voted 7-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Clerk Raymond voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L'Heureux voted Yes.



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MOTION - Member L’Heureux made a motion to approve the request of **Strega Burlington, LLC** (“Applicant”) for Special Permit pursuant to **Section 3.7 “Restaurants”** of the **90 Middlesex Turnpike Planned Development District Zoning Provisions**, to permit the reuse of an existing restaurant space with a reduction in total seating to be known as **Strega**, for property located in the **90 Middlesex Turnpike Planned Development (PD) and Aquifer (A) Districts** located at 92 Middlesex Turnpike (“Premises”), subject to the terms and conditions contained in exhibit “C” attached as modified. The motion was seconded by Clerk Raymond and unanimously voted 7-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Clerk Raymond voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L’Heureux voted Yes.

MOTION - Member Covino made a motion to take items “7.g” and “7.h” together for discussion purposes. The motion was seconded by Member L’Heureux and unanimously voted 7-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Clerk Raymond voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L’Heureux voted Yes.

7.g Public Hearing – Application for Approval of an amendment to a Special Permit pursuant to Section 4.2.6.10 “Restaurants” of the Zoning Bylaws – 75 Middlesex Turnpike (Burlington Mall) – LSF Burlington, LLC Applicant

7.h Public Hearing - Application for Approval of a Site Plan – 75 Middlesex Turnpike (Burlington Mall) – LSF Burlington, LLC, Applicant

Attorney Mark Vaughn from Reimer and Braunstein, Dennis Greenwood, Matt Giroux, Sarah Ebby and Ann Marie Esobar appeared for the Site Plan and Special Permits for 75 Middlesex Turnpike, Legal Seafood. Attorney Vaughn stated that Legal Seafoods has been in Burlington since 1985. They are proposing remodeling the existing restaurant including a slight increase in footprint in the front. They are proposing that the outdoor seating area in the front will become permanent seating where the windows can be opened up.

Mr. Greenwood stated that there will be an addition of 980 SF of additional space that will have bi-fold windows. There will be no encroachment on the sidewalk.

Member L’Heureux asked if any parking will be lost. Attorney Vaughn replied no. Member L’Heureux asked if the walk-up window in the mall will remain. Mr. Greenwood replied yes. They hope to file permits next month.

Vice Chair Gaffney asked if trees could be added in front. Ms. Ebby replied that they have to keep 7.5’ for the sidewalk. Mr. Greenwood stated that a planting strip in the front is not proposed but they will have additional landscaping on the side. Vice Chair Gaffney asked how much room is needed for a tree. Ms. Ebby replied about 5’. Mr. Greenwood stated that the bushes on the rendering have been removed and in the previous approval of this space they didn’t have landscaping in the front but do have it on the side. Attorney Vaughn stated that it is difficult to add landscaping and keep the sidewalk but we could look at planter boxes.

Member Impemba agreed with Vice Chair Gaffney. Ms. Kassner stated that we can work the applicant, Simon representatives and the Chair to come up with a proposal.



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Ms. Esobar stated that they are committed to this space and will come back for approval.

Clerk Raymond stated that he wants to see landscaping for the entire mall. Mr. Giroux stated that he is concerned with holding this application up with landscaping that is Simon's responsibility.

There were no questions from the audience.

MOTION - Member Covino made a motion to close the public hearing on these matters. The motion was seconded by Clerk Raymond and unanimously voted 7-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Clerk Raymond voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L'Heureux voted Yes.

MOTION - Member Covino made a motion to approve the request of **LSF Burlington, LLC** ("Applicant") for Special Permit pursuant to Section 4.2.6.10 "Restaurants" of Article IV of the Town of Burlington Zoning Bylaws, to permit the operation of an existing full-service restaurant with an increase in seating due to the construction of an enclosed three season dining space to be known as Legal Sea Foods, for property located in the General Business (BG) and Aquifer (A) Districts at 75 Middlesex Turnpike ("Premises"), subject to the terms and conditions contained in exhibit "D" attached as amended. The motion was seconded by Clerk Raymond and unanimously voted 7-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Clerk Raymond voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L'Heureux voted Yes.

MOTION - Member Covino made a motion to approve the request for approval of a Site Plan application of LSF Burlington, LLC for property located at 75 Middlesex Turnpike (Burlington Mall) for the construction of an enclosed patio area, relocated access/egress doors, building façade enhancements and an upgraded 6,000 gallon grease trap as reflected on the Site Plan entitled "Legal Sea Foods Burlington Mall 1100 Burlington Mall Road Burlington, MA," prepared by Vanasse Hangen Brustlin, Inc., dated November 19, 2021 consisting of one (1) sheet and the project floor plans and renderings entitled "Legal Sea Foods Burlington Mall 75 Middlesex Turnpike Burlington, MA 01803" dated November 16, 2021 prepared by Sousa Design Architects consisting of eleven (11) sheets, reflecting the existing 9,516 +/- square foot interior tenant space and the enlarged 980 +/- square foot enclosed patio space with 307 interior and 48 enclosed patio dining seats, subject to the following revisions, terms and conditions, as amended. The motion was seconded by Clerk Raymond and unanimously voted 7-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Clerk Raymond voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L'Heureux voted Yes.

MOTION - Member L'Heureux made a motion to take items 7.i and 7j together for discussion purposes. The motion was seconded by Clerk Raymond and unanimously voted 7-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Clerk Raymond voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L'Heureux voted Yes.



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7.i Continued Public Hearing - Application for Approval a Special Permit pursuant to 1.5.1 “Light Manufacturing” of the Burlington Corporate Center Planned Development District Bylaws – 10 Corporate Drive – The Gutierrez Company, Applicant

7.j Continued Public Hearing - Application for Approval a Special Permit pursuant to 1.5.2 (a) “Laboratories engaged in research, development, experimental and testing activities in such fields as biology, chemistry and medicine.” of the Burlington Corporate Center Planned Development District Bylaws – 10 Corporate Drive – The Gutierrez Company, Applicant

Attorney Robert Buckley from Reimer and Braunstein and Scott Weiss from the Gutierrez Company appeared for the public hearings for 10 Corporate Drive. Attorney Buckley stated that there will be no exterior modifications to the building. The Board of Health approved this application unanimously. They have addressed the questions from the last meeting. This PDD was issued in 1996. There is a proposed condition that when the user is determined, the application will be brought back to this Board for a public hearing. Mr. Weiss stated that we hope to fill the space and that would support the other businesses in the area.

Vice Chair Gaffney stated that he is concerned that the residents are emailing the applicant directly. Mr. Weiss stated that they have received emails from residents and have responded to them but copied staff. Ms. Kassner read the email into the record.

James McNiff of 59 Villagewood Drive – Mr. McNiff stated he has heard that the PDD is outdate but the residents should be protected. Were the residents at 20 Corporate Drive notified of the hearing? Ms. Kassner stated that the owner of the property was notified and we have not had any correspondence. Mr. McNiff asked why there isn't a IDD Special Permit. Ms. Kassner stated that the PDD is its own zoning district. Mr. McNiff stated that there should be approval from other departments. Ms. Kassner replied that they have received approval from most of the other departments. Ms. Bonventre stated that department comments are online and viewable. Mr. McNiff stated that large roof elements would be required for life science.

Attorney Buckley stated that the application before this Board now is not for making any changes to the building. All we are asking for is the approval of the use. When the tenant is found, then they would have to come in and file a new application. A special permit was issued when the building was built. This is for the use. We are asking for some flexibility within the PDD because uses are different from when the PDD was created.

MOTION - Member Covino made a motion to close the public hearing on this matter. The motion was seconded by Member L'Heureux and unanimously voted 7-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Clerk Raymond voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L'Heureux voted Yes.

MOTION - Member Covino made a motion to approve the request of The Gutierrez Company for Special Permit pursuant to Sections 1.5.1 “Light manufacturing, assembly, servicing or processing” and 1.5.2(a) “Laboratories engaged in research, development, experimental and testing activities in such fields as biology, chemistry and medicine,” of the Corporate Drive Planned Development District Zoning Provisions, to reposition the property to allow for life science uses within the existing 107,000 +/- square foot building located in the Corporate Drive Planned Development District at 10 Corporate Drive, subject to the terms and conditions contained in exhibit “A”. The motion was seconded by



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Member Espejo and voted 6-1-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Clerk Raymond voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted No, and Member L'Heureux voted Yes.

MOTION - Member L'Heureux made a motion to take items "7.k," "7.l" and "7.m" together for discussion purposes. The motion was seconded by Member Espejo and unanimously voted 7-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Clerk Raymond voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L'Heureux voted Yes.

7.k Public Hearing - Application for Approval of a Special Permit pursuant to 1.5.1 "Light manufacturing or processing plants" of the Northwest Park PDD Bylaw Provisions – 25 Network Drive – Vericel Corporation, Applicant

7.l Public Hearing - Application for Approval of a Special Permit pursuant to 1.5.4 "Hazardous and toxic materials/chemical use storage, transport, disposal or discharge" of the Northwest Park PDD Bylaw Provisions – 25 Network Drive – Vericel Corporation, Applicant

7.m Public Hearing - Application for Approval of a Special Permit pursuant to 1.5.6 "Generation or storage of hazardous waste in excess of the volumes classified as a very small quantity generator" of the Northwest Park PDD Bylaw Provisions – 25 Network Drive – Vericel Corporation, Applicant

Attorney Robert Buckley from Reimer and Braunstein, Michael Halpin, CEO Vericel and Todd Fremont-Smith appeared for the Special Permits for 25 Network Drive. Mr. Fremont-Smith stated that Vericel will take 120,000 SF of the new building to make it their headquarters. Mr. Halpin stated that this facility will house about 300 employees. This is a publicly traded company. They create tendons and skin for injuries.

Attorney Buckley stated that they are appearing before the Board of Health next Tuesday so they are requesting a continuance.

There were no questions from the audience.

MOTION - Member Espejo made a motion to continue this matter to the Planning Board meeting of January 20, 2022. The motion was seconded by Member Covino and unanimously voted 7-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Clerk Raymond voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L'Heureux voted Yes.

MOTION - Member L'Heureux made a motion to take items "7.n," "7.o," "7.p," "7.q," and "7.r" together for discussion purposes. The motion was seconded by Member Espejo and unanimously voted 7-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Clerk Raymond voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L'Heureux voted Yes.



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7.n Public Hearing – Application for Approval of a Special Permit pursuant to Section 4.1.2 “Pre-existing Uses and Structures” of the Zoning Bylaws – 64A Middlesex Turnpike – NStar Electric Company d/b/a Eversource Energy, Applicant

7.o Public Hearing – Application for Approval of a Special Permit pursuant to Section 4.2.2.23 “Passenger stations; landing fields; sites, buildings, and facilities for other public services; public works structures” of the Zoning Bylaws – 64A Middlesex Turnpike – NStar Electric Company d/b/a Eversource Energy, Applicant

7.p Public Hearing – Application for Approval of a Special Permit pursuant to Section 6.1.1 “Nonconforming Uses” of the Zoning Bylaws – 64A Middlesex Turnpike – NStar Electric Company d/b/a Eversource Energy, Applicant

7.q Public Hearing – Application for Approval of a Special Permit pursuant to Section 8.3.9 “Nonconforming Uses” of the Zoning Bylaws – 64A Middlesex Turnpike – NStar Electric Company d/b/a Eversource Energy, Applicant

7.r Public Hearing - Application for Approval of a Site Plan – 64A Middlesex Turnpike – NStar Electric Company d/b/a Eversource Energy, Applicant

Joshua Lee Smith, Keren Schlomy, Donna Picot and Tim Grace appeared for Special Permits and Site Plan for 64A Middlesex Turnpike. Mr. Smith stated that the parcel is 2.2 acres and NStar has had a substation in this location for over 60 years. They are looking to upgrade this site.

Chair Rappaport asked if other communities have these types of substations. Mr. Smith replied yes, in Woburn and Lexington. Chair Rappaport asked how temporary will this be. Ms. Schlomy stated that the trailer will be needed. Ms. Schlomy replied until the new substation is built, which will take about 4-5 years. Chair Rappaport asked what would happen if we said no. Ms. Schlomy stated that during the summer, we had to switch Burlington to Bedford, Woburn and Lexington. Chair Rappaport asked what abuts this location. Scott Weiss appeared and stated that they are appeared of the project. Chair Rappaport asked if the area was level. Mr. Weiss stated that there is some ledge but Millipore is uphill. Life science uses puts more of a strain on the power grid so they are in favor. Chair Rappaport asked what type of security will be on this site and could the site be made prettier. Ms. Picot stated that the fence out front will be 8’ and they will remove the barb wire. Chair Rappaport asked for a rendering of the fence.

Member L’Heureux asked if there could be plantings added on top of the stone wall. She would also like the addresses of the other substations.

MOTION - Vice Chair Gaffney made a motion to go past 11:00 PM. The motion was seconded by Member L’Heureux and unanimously voted 7-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Clerk Raymond voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L’Heureux voted Yes.

Vice Chair Gaffney asked what happens with the temporary station when the new substation is built. Mr. Smith replied that it will remain. Vice Chair Gaffney stated that it needs to look good.

Ms. Kassner stated that they are adding a bioretention area using rip rapt on the slope. They would prefer a grass slope and plantings. Mr. Grace stated that this has a 2 to 1 slope close to Middlesex



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Turnpike. The modified rock fill was added for longevity. Ms. L'Heureux asked if the area could be terraced. Mr. Grace stated that they could lose parking spaces. Vice Chair Gaffney stated that if we only need 5' for trees, then they should look at adding some. Ms. Picot stated that we need to maintain distance from our equipment. OSHA does not allow trees. Vice Chair Gaffney asked that a plan be submitted showing the exact measurements. Mr. Grace stated that the retaining wall is a concrete wall and can't have trees on it. Ms. Picot stated that the wall is also part of the grounding system. Mr. Grace stated that trees need to be 35' away from the equipment.

There were no questions from the audience.

Clerk Raymond left at 11:25 PM.

MOTION - Member Espejo made a motion to continue these matters to the Planning Board meeting of January 20, 2022. The motion was seconded by Member Covino and unanimously voted 6-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L'Heureux voted Yes.

8. Minutes – November 4, 2021 and November 18, 2021

MOTION - Member Espejo made a motion to approve the Planning Board minutes of November 4, 2021 and November 18, 2021. The motion was seconded by Member Covino and unanimously voted 6-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L'Heureux voted Yes.

9. Other Matters

9.a Discussion

9.a.i Drake Road Frontage Variance

Chair Rappaport stated that the ZBA held a hearing on a 4.2-acre parcel at the end of Chandler Road and they want to develop it but they need a variance for frontage. The applicant is proposing one house but has basically said that if the variance isn't approved, he will build a subdivision. We should challenge the applicant to see if a subdivision could even be built. The neighbors were upset at the meeting. Ms. Kassner stated that Conservation sent a letter and they can draft a letter if the Board wants to. This is a unique property and it is unclear if this parcel could be subdivided. Member L'Heureux stated that they would need to prove that they could build a subdivision. Ms. Kassner stated that the applicant would need to provide that information. Member Espejo stated that he is very concerned with the comments made by the applicant we should send a letter.

9.a.ii Mill Pond Estates

Ms. Kassner stated that the first lot is ready for sale. The Board needs to release this one lot and this would trigger the requirement for the land donation.

MOTION - Member Covino made a motion that the Planning Board hereby release Lot 1 for sale from the Mill Pond Estates Conditional Approval Covenant in exchange for a surety. The motion was seconded by Member Espejo and unanimously voted 6-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L'Heureux voted Yes.



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9.a.iii Air BnB

Ms. Kassner stated that there is no update.

9.a.iv Mall Bus storage

Ms. Kassner stated that she received an email from Justin Feldhouse and the buses are for the Town of Lexington and they were parked there under a temporary agreement due to the pandemic which ends in April

9.a.v Mall Truck share Fluid

Ms. Kassner stated that they received an email from Justin Feldhouse and he said the vehicles are parked there through March but the customers don't come to the site. This is not allowed and they are taking enforcement action. Vice Chair Gaffney stated that they are not telling the truth. The website says that customer's pick the vehicles up at 75 Mall Road. He wants Mr. Feldhouse to come before this Board.

9.a.vi Tree wells (explanation to the board, recommendation when to use them)

Ms. Kassner stated that she is working with Conservation and will have more information on these.

9.a.vii Rhino Propane

Mr. Caldwell stated that the Building Department has sent out Enforcement letters to Nouria and they will continue to work with the applicant. They would need to amend the Site Plan and a Special Permit is required. Vice Chair Gaffney stated that the propane is also at Old Town Liquors.

9.a.viii Master Plan

Ms. Kassner stated that we should continue to look through these.

9.b Correspondence

There was no correspondence.

9.c Reports from Town Counsel

There were no reports from Town Counsel.

9.d Subcommittee Reports

There were no subcommittee reports.

9.e Unfinished Business

There was no unfinished business.

9.f New Business

Ms. Kassner stated that they met with engineering and Conservation to discuss 24 Terry Ave sidewalk. They will start construction in the spring.

Member Espejo asked for an update and asked if they are taking down the fence next to Patterson. Ms. Bonventre stated that the permit was issued but she will double check.



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Vice Chair Gaffney stated that the cigar place near the substation has blinking signs. There is also a nail salon next to the school house that has blinking lights and asked if Enforcement Letters could be sent.

MOTION - Member Espejo made a motion to adjourn the January 6, 2022 Planning Board meeting at 11:45 PM. The motion was seconded by Vice Chair Gaffney and unanimously voted 6-0-0. On a roll call vote: Chair Rappaport voted Yes, Vice Chair Gaffney voted Yes, Member Covino voted Yes, Member Espejo voted Yes, Member Impemba voted Yes, and Member L'Heureux voted Yes.

Approved: 4-0-2

*Respectfully Submitted by Dawn McDowell,
Recording Clerk*