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TOWN OF BURLINGTON

Meeting Minutes

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Minutes need to be posted within 30 days or 2 meetings of the board – Draft minutes can be posted and revised at a later date

BOARD: Conservation Commission
DATE: January 28, 2021
TIME: 7:00 PM
PLACE: WebEx Remote Meeting
MEMBERS IN ATTENDANCE: Chairman Larry Cohen, Vice Chair William Boivin, Gail Lima, Donald Bernstein, and Ed LoTurco
MEMBER MISSING: Indra Deb, Jennifer O'Riorden and Kent Moffat

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

Approved at the February 11, 2021 Conservation Commission meeting

1. Call to Order

Mr. Cohen called the meeting to order at 7:03 PM. On a Roll Call, Mr. Boivin voted Present, Ms. Lima voted Present, Mr. LoTurco voted Present, and Mr. Bernstein voted Present.

Mr. Cohen read the following statement: Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor's March 15, 2020 Order Imposing strict limitations on the number of people that may gather in one place, this meeting of the Town of Burlington Conservation Commission is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings as provided for in the Order. A reminder that persons who would like to listen to or view this meeting while in progress may do so by tuning into the BCAT Government Cable Access Channel, the BCAT Government Meetings Facebook Live feed, or you can join the meeting over the phone @408-418-9388. To join the WebEx live video conference, click on the link on the Conservation Commission's meetings page or on the Town of Burlington Town calendar or go to Webex.com, join a meeting. Meeting number is 173 596 3961 the password if needed is jfPeJCNB927.

New public hearings opened tonight will not be closed, so as to allow comments from those who are unable to access or are uncomfortable with the technology. Comments or concerns regarding public hearings should be emailed to conservation@burlington.org before the next meeting on February 11, 2021.

The meeting is being recorded on BCAT as well as WebEx.





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2. Citizens' Time

No one came forward to speak.

3. Approval of Minutes – January 14, 2021

Mr. Cohen stated that he had a few comments on the 4th Avenue project regarding the trail that have been added to the minutes.

MOTION - Mr. LoTurco made a motion to approve the Conservation Commission minutes of January 14, 2021 as amended. The motion was seconded by Mr. Boivin and voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes and Mr. Cohen voted Yes.

Mr. Friedmont-Smith stated that they will discuss the trail under agenda item #10 but the tires have all been cleaned up.

4. Request for Extension

4a. The District (District Drive) – National Development – DEP #122-537

Attorney Mark Vaughn from Riemer & Braunstein LLP, Katie Snider and Bill Kennedy from National Development appeared for the request for extension of DEP #122-537. Attorney Vaughn stated that there was a partial Certificate of Compliance was issued for this project in 2017 but there is still work remaining. One of the buildings has not been built and they are requesting a 3 year extension.

Mr. Keeley stated that he has no issue with this extension. If the Executive Order from the Governor was not in effect, then this would have expired last July. He would recommend a 3 year extension to July 2023.

Ms. Lima stated that there is sediment and construction debris as well as a dumpster located near the old garage that should be cleaned up. Ms. Snider stated that she will notify the property manager immediately. Ms. Coleman stated that she can forward the pictures of the debris.

MOTION - Mr. Bernstein made a motion to approve the 3-year extension for DEP #122-537 until July 2023. The motion was seconded by Mr. Boivin and unanimously voted 5-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes and Mr. Cohen voted Yes.

5. Request for Certificate of Compliance/Return of Surety

5a. 7 Winn Street & 9 Randall Drive – Church of the Open Bible – DEP #122-537

Wayne Root of the Church of the Open Bible appeared for the request for a Certificate of Compliance.

Ms. Coleman stated that this project was to repave the parking lot, upgrade the storm water system including swales in front of the wetlands and adding a curb cut. The only issue is that a few of the downspouts were draining to pavement not to the landscape area and they have mowed in the swale and that should be left to its natural state. Ms. Coleman added that there is no bond on this project due to the applicant being a church. Mr. Root stated that they can fix the downspouts and they have notified the landscaper not to cut in that area.

MOTION - Ms. Lima made a motion to issue the Certificate of Compliance for 7 Winn Street & 9 Randall Drive DEP #122-537 under Article 14 of the Burlington Wetland Bylaw. The motion was seconded by Mr.





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Boivin and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes and Mr. Cohen voted Yes.

6. Enforcement Orders/Violations

6a. 31 Maud Graham Circle – Removal of Vegetation in Riverfront Area

Qimei Ran and Xiaodong Sun appeared for the enforcement order at 31 Maud Graham Circle. Ms. Ran stated that they bought the house 5 years ago and didn't know they couldn't cut down the bushes. These were very thorny bushes. His husband is allergic to this shrub and they cut them back to plant vegetable gardens for her mother to tend. There was a metal fence that was found and they stopped clearing at the fence. These thorn bushes are also between their house and the neighbor's house.

Ms. Coleman explained the riverfront regulations to Ms. Ran. There is a 200' riverfront and 20' no disturb buffer zone. They removed about a 14' path. She would suggest adding shrubs on their side of the fence to try to protect the river front.

The Conservation Commission discussed/questioned:

- The riverfront is very important for water quality and animal habitat. It also helps with runoff.
- There should be some restoration done with native shrubs planted along the fence line. A plan should be submitted and work should be done in the spring with approval by staff.
- There should be no gardens so close to the river.

Ms. Coleman stated that she will follow up with the owners in April to work on a plan.

7. Request for Determination of Applicability (RDA)

7a. 34 Cambridge Street – Five Below – Construct an Addition to Commercial Building

Tim Hayes of Bohler Engineering appeared for a RDA at 34 Cambridge Street. The proposal is that Five Below is taking over the old Outback Steakhouse location and they are proposing a 1,000 SF addition in the rear in the existing loading area. There was a drainage swale that was flagged in 2012 and they are seeking a negative determination. There is no change in the drainage pattern and they are going to the Planning Board also. They have reviewed the draft conditions and they agree to all of them.

Mr. Keeley stated that there was no formal determination of a jurisdictional stream and with the winter conditions they cannot determine it so they are treating it as if it was. There is no finding as to the presence of a jurisdictional wetland within the ditch in this approval.

MOTION - Mr. Bernstein made a motion to issue a negative conditional determination of applicability for 34 Cambridge Street for a 1,000 SF commercial addition under the Burlington Bylaw Article 14. The motion was seconded by Mr. LoTurco and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes and Mr. Cohen voted Yes.

8. Continued Public Hearing – Notice of Intent – Terrace Hall Avenue – Town of Burlington DPW – Construct Sidewalk – DEP #122-654





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Thomas Hayes and Meghan Cavalier from the Town of Burlington appeared for the continued Notice of Intent to construct a sidewalk on Terrace Hall Avenue.

Ms. Coleman stated that they did receive notification from Natural Heritage that the work will not adversely affect the habitat.

The Conservation Commission discussed/questioned:

- Is the slope of the sidewalk in the contract?
- Is picking up the trash along the sidewalk in the contract?

The applicant/staff offered the following responses:

- Both the slope of the sidewalk and picking up of the trash are in the contract and the slope of the sidewalks is on the plans.

There were no questions from the audience.

MOTION - Ms. Lima made a motion to close the public hearing for the Notice of Intent for Terrace Hall Avenue, DEP #122-654. The motion was seconded by Mr. LoTurco and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes and Mr. Cohen voted Yes.

MOTION - Mr. Boivin made a motion to adopt the findings under the Burlington Bylaw Article 14 for sidewalks on Terrace Hall Avenue, DEP #122-654. The motion was seconded by Ms. Lima and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes and Mr. Cohen voted Yes.

MOTION - Mr. LoTurco made a motion to adopt the Order of Conditions under the Burlington Bylaw Article 14 and the State Wetlands Protection Act for sidewalks on Terrace Hall Avenue, DEP #122-654. The motion was seconded by Mr. Boivin and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes and Mr. Cohen voted Yes.

9. Continued Public Hearing – Notice of Intent – 60 Blanchard Road – Nordblom Development Company – Reconstruct Parking Lot – DEP #122-652

Attorney Robert Buckley and Attorney Kristine Hung from Riemer & Braunstein LLP, Todd Freidmont-Smith and Todd Nordblom from Nordblom Company, Patrick O’Neill, Marissa Valentino and Frank DiPietro from BSC Group appeared for the continued Notice of Intent for 60 Blanchard Road. Attorney Buckley stated that from the last meeting, the plans have been modified to change the curbing to sloped granite curbing on the southwest side and remove the debris as noted.

Mr. Keeley stated that the storm water systems within the paved areas are an improvement as required by a redevelopment project. This project is adding a swale and reducing pavement also.

The Conservation Commission discussed/questioned:

- The curb should be removed at the first parking space on the left so water can flow freely.





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- The rip rap should be moved to the corner to address water.
- The snow storage is on the easterly side of the driveway and there is concern with icing as it melts.
- There is concern with bituminous curbing and the damage plows can cause.
- Any new proposed sign should not be moved further back than the existing sign location.
- Will there be any replanting required out front where the vegetation was cut down?

The applicant/staff offered the following responses:

- Spot grades should be added and that corner is higher so the water will be directed towards the swale. They could extend the stone area to the corner but there shouldn't be ponding post-construction. They are changing the curbing to sloped granite curbing and they will look at adding another curb cut.
- The snow pile is not adjacent to any wetlands. It will melt and flow into a catch basin then the water quality system. There is also a 2% grade from East to West that should provide the flow across the driveway.
- They will put in the Operations Manual that curbing must be inspected every year and repaired where needed.
- There can be a condition not to cut the vegetation in the front and it should grow back rather quickly. No additional planting is needed.

There were no questions from the audience.

MOTION - Mr. LoTurco made a motion to close the public hearing for the Notice of Intent for 60 Blanchard Road, DEP #122-652. The motion was seconded by Mr. Boivin and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes and Mr. Cohen voted Yes.

MOTION - Ms. Lima made a motion to adopt the findings under the Burlington Bylaw Article 14 for 60 Blanchard Road, DEP #122-652. The motion was seconded by Mr. Boivin and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes and Mr. Cohen voted Yes.

MOTION - Mr. LoTurco made a motion to adopt the Order of Conditions under the Burlington Bylaw Article 14 and the State Wetlands Protection Act for 60 Blanchard Road, DEP #122-652. The motion was seconded by Ms. Lima and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes and Mr. Cohen voted Yes.

MOTION - Ms. Lima made a motion to require a \$5,000 bond for 60 Blanchard Road, DEP #122-652 under the Burlington Bylaw Article 14. The motion was seconded by Mr. LoTurco and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes and Mr. Cohen voted Yes.





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10. Continued Public Hearing – Notice of Intent – 174 Middlesex Turnpike/2 & 4 Fourth Avenue – Nordblom Development Company – Construct a Multi-Family Residential Building – DEP #122-653

Attorney Robert Buckley from Riemer & Braunstein LLP, Todd Freidmont-Smith and Todd Nordblom from Nordblom Company, and Marissa Valentino and Frank DiPietro from BSC Group appeared for the continued Notice of Intent for 174 Middlesex Turnpike. Attorney Buckley stated that this is the first phase of a residential development. Ms. Valentino summarized the comments from the last hearing. They are looking at adding a pollinator garden and Nordblom is committed to working to improve the trails around the site. The snow storage has been located on the plan as requested. Mr. Freidmont-Smith added that they are looking at adding more landscaping and perhaps the pollinating vegetation could be added around the building.

Mr. Keeley stated that the applicant is still working on storm water issues and they have appeared to address the flood storage issues.

The Conservation Commission discussed/questioned:

- Requested that the applicant look at raised beds for vegetable gardens. Also look at Boston Bees.
- Softscapes softens the impact of large developments.
- Appreciation from the Conservation Commission was given to Nordblom for cleaning up the tires and snowmobile along the Kent Road trail.
- Requested that the applicant continues to look at connecting the trails near Life Time Fitness.

There were no questions from the public.

Attorney Buckley asked that the Conservation Commission send a letter of support of this project to the Planning Board.

MOTION - Ms. Lima made a motion to continue the Notice of Intent for 174 Middlesex Turnpike/2 & 4 Fourth Avenue until February 11, 2021. The motion was seconded by Mr. Bernstein and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes and Mr. Cohen voted Yes.

11. Administration

11a. Planning Board Comments- Mr. Keeley stated that he will send a letter in regards to 174 Middlesex Turnpike.

11b. Subcommittee, Staff Reports and Updates

Mr. Keeley stated that the Commission needs to ratify an emergency certification for beaver dam breaching on Sandy and Vine Brooks for the DPW.

MOTION - Mr. Boivin made a motion to ratify the emergency certification for beaver dam breaching on Sandy and Vine Brooks for the DPW. The motion was seconded by Ms. Lima and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes and Mr. Cohen voted Yes.





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Mr. Keeley stated that 171 Bedford Street was issued an enforcement order for paving over permeable pavers. They have rectified the problem and the enforcement order should be lifted.

MOTION - Ms. Lima made a motion to lift the enforcement order for 171 Bedford Street. The motion was seconded by Mr. Bernstein and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes and Mr. Cohen voted Yes.

Ms. Coleman stated that they met with the Bylaw Review Committee on the storm water bylaw changes and they wanted format changes so the article was pulled from Town Meeting. They will be working with the subcommittee and hopefully have the article back on the warrant for the May Town Meeting.

11c. Upcoming Meetings –February 11, 2021 and February 25, 2021

Mr. Keeley stated that he looked at the dates this year and the meeting in November falls on Veteran's Day and Thanksgiving is also on Thursday so he asked members to look at other dates.

11d. Other Business- None

12. Adjournment

MOTION - Mr. LoTurco made a motion to adjourn the January 28, 2021 Conservation Commission meeting at 8:40 PM. The motion was seconded by Ms. Lima and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes and Mr. Cohen voted Yes.

*Respectfully Submitted by Dawn Cathcart,
Recording Clerk*

