



TOWN OF BURLINGTON
PLANNING BOARD MEETING
MARCH 17, 2022

RECEIVED

By Town Clerk's Office at 10:54 am, Jul 01, 2022

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

Members Absent: Ernest Covino

Staff Present: Planning Director Kristin Kassner; Senior Planner Elizabeth Bonventre, and Assistant Planner Brady Caldwell

1. Call the Planning Board Meeting to Order

Chair Rappaport called the meeting to order at 7:01 PM. The Pledge of Allegiance was recited.

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 items "7.i" through "7.n" together and out of order for discussion purposes. The motion was seconded by Member L'Heureux and unanimously voted 5-0-0.

7.i Discussion - Application for Approval of a Minor Engineering Change – 43 South Avenue – The Gutierrez Company, Applicant

7.j Public Hearing – Application for Approval of a Special Permit pursuant to Section 1.4.1 “Light manufacturing or processing plants” of the South Avenue Planned Development (PD) Zoning District provisions – 43 South Avenue – The Gutierrez Company, Applicant

7.k Public Hearing – Application for Approval of a Special Permit pursuant to Section 1.4.4 “Hazardous and toxic materials/chemical use storage, transport, disposal or discharge. Disposal must be off-site and under appropriate manifest and discharge must only be to sanitary sewer if allowed by Massachusetts Water Resources Authority and the Burlington Department of Public Works” of the South Avenue Planned Development (PD) Zoning District provisions – 43 South Avenue – The Gutierrez Company, Applicant

7.l Public Hearing – Application for Approval of a Special Permit pursuant to Section 1.4.5 “Generation or storage of hazardous waste limited to the volumes classified as very small quantity generator with approval of Board of Health” of the South Avenue Planned Development (PD) Zoning District provisions – 43 South Avenue – The Gutierrez Company, Applicant

7.m Public Hearing – Application for Approval of a Special Permit pursuant to Section 1.4.6 “Generation or storage of hazardous waste limited to the volumes classified as small quantity generator with approval of Board of Health” of the South Avenue Planned Development (PD) Zoning District provisions – 43 South Avenue – The Gutierrez Company, Applicant

7.n Public Hearing – Application for Approval of a Special Permit pursuant to Section 1.6.16 “Above ground storage of oils and fuels/petroleum products including storage for on-site heating purposes and landscaping maintenance equipment (in excess of 50 gallons). Underground



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storage is prohibited” of the South Avenue Planned Development (PD) Zoning District provisions – 43 South Avenue – The Gutierrez Company, Applicant

Clerk Raymond joined the meeting at 7:05 PM.

MOTION - Member L’Heureux made a motion to continue these matters to the Planning Board Meeting of April 7, 2022. The motion was seconded by Vice Chair Gaffney and unanimously voted 6-0-0.

MOTION - Member L’Heureux made a motion to take item “7.o” out of order for discussion purposes. The motion was seconded by Member Espejo and unanimously voted 6-0-0.

7.o Continued Public Hearing – Petitions to rezone property to the Innovation (I) District – 54 Middlesex Turnpike, 56 Middlesex Turnpike and 15 Adams Street - Submitted by The Cohen Realty Group, Burlex Realty LLC & 15 Adams Street, LLC

MOTION - Member L’Heureux made a motion that the Planning Board hereby accepts the Applicant’s request to withdraw without prejudice the petition to rezone the property located at 54, Middlesex Turnpike (Map 56, Parcel 7-0), from General Business (BG) District to the Innovation (I) District as requested by The Coen Realty Group, property owner, on March 14, 2022. The motion was seconded by Member Espejo and unanimously voted 6-0-0.

MOTION - Member L’Heureux made a motion to continue the matters of 56 Middlesex Turnpike and 15 Adams Street to the Planning Board Meeting of April 7, 2022. The motion was seconded by Member Espejo and unanimously voted 6-0-0.

MOTION - Member L’Heureux made a motion to take item “7.p” out of order for discussion purposes. The motion was seconded by Member Covino and unanimously voted 6-0-0.

7.p Continued Discussion – Sign District Map – Zoning Bylaw Review Committee

MOTION - Member L’Heureux made a motion to continue this matter to the Planning Board Meeting of May 19, 2022. The motion was seconded by Clerk Raymond and unanimously voted 6-0-0.

2. Citizen’s Time

There were no citizen’s coming forward.

3. Announcements

Ms. Bonventre read the public hearing announcements. The Last Day to Register to Vote for Annual Town Election is March 18th by 1:00 pm in the Town Clerk’s Office. The Zoning Bylaw Review Signage Subcommittee will be meeting on March 21st at 5:30 pm via Zoom. The Land Use Committee will be meeting on March 22nd at 7:00 in the Town Hall Annex and via Zoom. The Zoning Bylaw Review will be meeting on March 23rd at 6:30pm via Zoom. Household Hazardous Waste Day will be held on April 2nd 8:30 - 12:00 pm at Francis Wyman School. The Annual Town Election will be Saturday, April 9th 8:00 am – 8:00 pm at the Burlington High School.

Member L’Heureux stated that there will be a vigil in the Sculpture Park for Ukraine on Friday from 5:30 to 6:30 PM.



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Member Espejo gave his condolences to the family of Don Flaherty. Member Espejo also stated that Coach C. received his 472nd win for Burlington Hockey in 35 years of coaching. Member Espejo also congratulated Chief Brown for graduating the FBI National Academy in Quantico.

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

7.a Continued Public Hearing – Petition to amend the Zoning Bylaw, Article II: Definitions and Article V “Dimensional Requirements” to address Groundwater Separation for One - Dwelling District – Submitted by the Planning Board

Ms. Kassner stated that this article is to add a dimensional requirement to have 2’ of separation above the seasonal high groundwater table in the zoning bylaw. This will be in the RO district and will be for new construction or additions over 1,000 SF. The Conservation Administrator reached out to some engineering firms and the additional cost would be approximately \$500-\$1,000. If there is less than 2’ of separation, the applicant would have to provide a mitigation plan. The Board of Health and Conservation also have similar regulations. Ms. Kassner stated that there are similar bylaws in Lexington, Wilmington, Billerica and Bedford all dealing with the 2’ separation.

John Keeley, Conservation Administrator joined the meeting.

Member L’Heureux stated that there is a lot of misinformation on line. The purpose of this bylaw is to protect the neighbors.

Susan Kadilak of 182 Mill Street – Ms. Kadilak asked what the additional fee would be for. Mr. Keeley stated that as part of the storm water permit is to design the drainage system. Section 4453(g), all Board have the ability to go out and hire a peer review if required. This is typically for commercial projects. Ms. Kadilak stated that it should be removed. There is a requirement that you can’t build up the grade more than 6”. Ms. Kassner stated that if you can’t meet the 2’ separation then you would have to provide mitigation. Mr. Keeley stated that the thresholds are under discussion in the Conservation regulations including the 6”. Ms. Kadilak stated that you are allowed to tie into the storm drains under the MS4 permit and that would be a lot of sump pumps. Mr. Keeley stated that the stormwater bylaw regulations ESHGWT so there would be no extra cost. The MS4 under the EPA allows sump pumps but only addresses water quality. The DEP regulations have to look at quantity as well as quality. Ms. Kassner stated that residents can do a slab or crawl space if they can’t do a full basement. Chair Rappaport stated that we have the ethical responsibility to protect our neighbors.

Member Espejo stated that he is frustrated with the complaints he has received with residents getting water in their houses due to development.



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Andrea Tracy – Ms. Tracy asked if this was for residential properties only. Ms. Kassner replied yes, the commercial projects have full storm water permits and this is not this issue.

MOTION - Member L’Heureux made a motion to continue this matter to the Planning Board Meeting of April 7, 2022. The motion was seconded by Member Espejo and unanimously voted 6-0-0.

MOTION - Member Espejo made a motion to take items “7.b” and “7.c” together for discussion purpose. The motion was seconded by Member L’Heureux and unanimously voted 6-0-0.

7.b Continued Public Hearing – Petition to amend the Zoning Bylaw, Article III “Districts”, Article IV “Use Regulations”, and Article VIII “Overlay Districts (8.5.0 Town Center)” to create a new zoning District “Town Center Multifamily (TCM)” – Submitted by Novaya Real Estate Ventures LLC

7.c Continued Public Hearing – Petitions to rezone property to the Town Center Multifamily (TCM) District – 135, 137, 137R, 139A, 139 Cambridge Street – Submitted by Novaya Real Estate Ventures LLC

Attorney Mark Vaughn from Reimer and Braunstein, Peter Carbone from Novaya, and Jeff Feldman from Root Development appeared for the continued public hearing to rezone the properties on Cambridge Street to TCM. Mr. Carbone stated that they have taken the comments from the Boards and look at the project. The front building along Cambridge Street will not change. They have reduced the number of units from 98 to 82. They will have 15% affordability. The square footage will be reduced by 25,000 SF from 140,000 SF to 115,000 SF. The height will be reduced from 4 floors to 3 floors and 45’ to 32’. They are proposing removing the retail aspect of the project and increase the buffer in the back with increased landscaping. The traffic for an average week with the current use is 395 trips, the original proposal would be 922 trips and the new proposal would be 602. The average night peak trip was reduced by 31 trips over the current use. They would be not be asking for any waivers.

Chair Rappaport stated that there is a by-right aspect but we want to do what is best for Burlington. We need to look at commercial vs. residential and asked if there was any commercial aspect. Mr. Carbone stated that only if the Planning Board decides. Chair Rappaport asked that they look at solar panels on the project. She would also like fruit bearing trees and bushes added to the landscaping. The neighbors are concerned with the wildlife in the area. She would also like the applicant to look at a senior housing component. Mr. Carbone stated they he doesn’t want to deed restrict the project. Chair Rappaport asked what the price point would be. Mr. Carbone replied that a 2-bedroom will be about \$700,000 and a 1-bedroom will be about \$500,000. The condo fees will be about \$500 a month. There will be 13 affordable units that will be about \$220,000 which is also 16% affordability.

Member Espejo stated that you indicated that there is no left out but can you take a left in. Mr. Carbone replied yes.

Member Impemba asked if there will be a roadway behind. Mr. Carbone replied that we looked at that but there are wetlands and steep grade changes so it will not be likely. Member Impemba stated that this is a transitional use and asked if they could look at a legal office or real estate office that is a less intensive use and asked if there is a different standard for professional offices. Ms. Kassner stated that uses have different parking standards. There are a lot of allowed uses in the TCOD. We can add a use if not currently allowed. Member Impemba asked if we can limit the project to a less



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intensive use. Mr. Carbone stated that there is 2,000 – 4,000 SF that we could look at. Chair Rappaport asked if this could be donated to the community for arts & science or a farmer's market.

Member L'Heureux stated that she appreciates the proposed changes but this is not solving affordable housing. She would request more than 13 units. Would this project could toward the MBTA Communities? Ms. Kassner updated the Board on MBTA communities' requirements. Attorney Vaughn stated that the bylaw would satisfy the MBTA requirements. They can add the adjacent properties if the 5-acre requirement stays in place.

Clerk Raymond stated that people are afraid of expansion and they want the property to remain as is but it is going to be developed.

Member L'Heureux stated that we need to decide as a Town if we want to forgo the MBTA communities and not build more MFD housing.

Vice Chair Gaffney asked that the applicant look at an assisted living concept be looked at. The traffic during the High School start and finish is awful and traffic is backed up past the lights. This has been determined not to be spot zoning and this allows for MFD in the TCOB by a Town Meeting vote but we need to look at the unintended consequences.

Member Impemba stated that to have a viable down town area we need housing to support the retail and this is a good option. This site will be developed.

Anna Sullivan of 3 Jackson Road – Ms. Sullivan stated that this is a suburb and the traffic during rush hour is ridiculous. There has to be mitigation. Ms. Kassner stated that anything that is on this site will be an increase of what is there now because nothing is here. We need to look at what the best uses are. Member Impemba asked what the worst-case traffic scenario is. Mr. Carbone stated that if this was built out as by right retail uses it could be 3,000 trips a day vs. this proposal which would be 602 trips per day. Ms. Sullivan stated that the traffic is awful now.

Shari Ellis, Chair of the Zoning Bylaw Review Committee – Ms. Ellis stated that we are meeting next week to discuss this. We haven't received the actual bylaw and the language for this is going to be critical. Should there be a unit cap? Should the bylaw restrict the type of uses allowed?

Craig Foster – Mr. Foster asked if approved, there is no noise mitigation. There needs to be trees and fencing to mitigate the noise and light. Will there be a gate? Mr. Carbone replied that there is a gate off the exit but it will be used for emergency service only. They have increased the landscape buffer by 30' in the back. Mr. Carbone stated that he would agree to add a fence. Mr. Foster asked if they can look at units per acre and asked that they look at increasing the affordable percentage. Chair Rappaport stated that we can ask the applicant but the project has to be economically feasible. Mr. Foster stated that this should wait to see if the town accepts the MBTA communities first. He also said that the 3,000 vehicle trips per day is a scare tactic because this site does not lend itself to big retail.

MOTION - Member Espejo made a motion to continue these matters to the Planning Board meeting of April 7, 2022. The motion was seconded by Member L'Heureux and unanimously voted 6-0-0.



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7.d Continued Public Hearing – Petition to amend the Network Drive at Northwest Park Planned Development District Zoning Provisions, Special Conditions and Use Provisions – Submitted by Nordblom Development Company and its affiliates NDB Property Owner 1, LP and NDB Property Owner 2, LP

Attorney Robert Buckley and Attorney Kristine Hung from Reimer and Braunstein, and Frank DiPietro from BSG Group appeared for the continued discussion on the amendments to the PDD. Attorney Buckley stated that there are no changes to the regulatory process and they are proposing adding 3-4 new buildings. They have presented in the past that this project is LEED Gold and Fitwel 2 Stars. There will be PV on the parking garages, EV charging stations, white roofs, increased natural landscaping and enhanced storm water measurers. A member asked for a breakdown of SF. There is currently 940,744 of existing GSF, they have permits for 305,000 GSF and there is an additional 237,726 GSF for rent for a total of 1,483,470 GSF. They are proposing adding 466,530 GSF for a new total of 1,950,000 GSF. This will be infill development and increased tax revenue of \$2.7 Million.

Vice Chair Gaffney asked if there can be a pedestrian access bridge be added to the land locked property. Attorney Buckley stated that there are serious grade changes and it would require federal and state approval and would have to be ADA compliant. Mr. DiPietro stated that it could cost up to \$50 Million.

Clerk Raymond stated that we should forget about access, there is a new trail and places to park on the other side.

MOTION - Member L'Heureux made a motion to continue this matter to the Planning Board meeting of April 7, 2022. The motion was seconded by Member Espejo and unanimously voted 6-0-0.

7.e Public Hearing – Application for Approval of a Special Permit pursuant to Section 4.2.6.2 “Convenience food stores, drugstores, retail stores for sale of beauty and health aids, smoking supplies, periodicals; none with the sale of food intended for consumption on the premises” of the Zoning Bylaws – 226 Cambridge Street – Burlington Smoke Shop Inc., Applicant

Attorney Mark Vaughn from Reimer and Braunstein and Mr. Patel appeared for a Special Permit for 226 Cambridge Street. Attorney Vaughn stated that Mr. Patel currently owns the Turnpike Market in Billerica and a smoke shop at 445 Rantell Street, Beverly so he has the experience. This is the location of the former Cambridge Savings Bank.

Chair Rappaport stated that she is concerned that is its right next to a yoga studio, karate place and ice cream shop. If this is approved, it should have a conservative store front with no product display in the front. This shop should be classy.

Member L'Heureux asked that she would like to see a similar shop to Middlesex Turnpike. A special permit requires a benefit to the community and she has a hard time coming up with one.

Member Espejo asked if they will sell smoking paraphernalia. Mr. Patel replied yes, but it will not be displayed in the windows but they are permitted by law.

Attorney Vaughn stated that they will keep the existing doors and keep the colonial look on the outside. Chair Rappaport asked them to look at tinting the windows. She would also like the applicant to present a picture of the interior and exterior showing the proposed signs.



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MOTION - Member L'Heureux made a motion to continue this matter to the Planning Board Meeting of April 7, 2022. The motion was seconded by Member Espejo and unanimously voted 6-0-0.

MOTION - Member L'Heureux made a motion to take items "7.f" and "7.g" together for discussion purposes. The motion was seconded by Member Espejo and unanimously voted 6-0-0.

7.f Public Hearing – Application for Approval of a Special Permit pursuant to Section 1.7.21 “Storage and disposal of oils and fuels/petroleum products including storage for on-site heating purposes” of the Corporate Center Planned Development (PD) Zoning District provisions – 10 Corporate Drive – The Gutierrez Company, Applicant

7.g Discussion - Application for Approval of a Minor Engineering Change – 10 Corporate Drive – The Gutierrez Company, Applicant

Attorney Robert Buckley and Attorney Kristine Hung from Reimer and Braunstein, and Scott Weiss from the Gutierrez Company appeared for the special permit and minor engineering change for 10 Corporate Drive. Attorney Buckley stated that the approval was granted back in January. They would now like to do a Minor Engineering Change to enclose an area near the loading docks for fuel storage and a pad for a generator.

Ms. Kassner stated that they are adding trees in the buffer and there will be pavement removed in the lower parking lot to increase the landscaping on the street scape.

Chair Rappaport stated that the conex box should be removed.

Vice Chair Gaffney asked if the generator is on the Cambridge Street side. Ms. Bonventre replied yes, but it is not visible from the street. Mr. Weiss stated that they would add additional planting to screen the storage tanks. Member Impemba asked that these trees be added along the street. Mr. Weiss stated that may be difficult due to the retaining wall but they will work with staff on the best placement. Vice Chair Gaffney asked why there were so many concrete pads. Mr. Weiss replied that there are 2 near the loading docks that the generators will sit on and there are 2 additional ones for future tenants' fuel storage and generator. Vice Chair Gaffney asked if there was a limit on fuel storage. Ms. Kassner replied there is no limit but they will have to fit on the pads as shown.

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 Espejo and unanimously voted 6-0-0.

MOTION - Member L'Heureux made a motion to approve the request of The Gutierrez Company for a Special Permit pursuant to Section 1.7.21 Storage and disposal of oils and fuels/petroleum products including storage for on-site heating purposes” of the Corporate Center Planned Development (PD) Zoning District provisions at 10 Corporate Drive subject to the terms and conditions contained in exhibit “A” attached as amended and to work with staff on the location of the trees. The motion was seconded by Vice Chair Gaffney and unanimously voted 6-0-0.

MOTION - Member L'Heureux made a motion to approve the request for approval of a Minor Engineering Change for property located 10 Corporate Drive (“Premises”) to allow for the enclosing of the existing outdoor loading dock, relocation of the trash compactor to a new pad on site, relocation of fire hydrant, the installation of five (5) new concrete utility pads, and the removal of sixteen (16)



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parking spaces for an overall net reduction of 1,370 Sq. Ft. in imperious surface as reflected on the redlined site plan entitled “Minor Engineering Change 10 Corporate Drive in BURLINGTON, MASSACHUSETTS,” prepared by BSC Group, dated February 22, 2022 consisting of one (1) sheet subject to the following revisions, terms, and conditions as amended. The motion was seconded by Member Espejo and unanimously voted 6-0-0.

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

Robert France from Senate Construction, Dan Hazen and Tom Ouellet appeared for the continued public hearing for 15 Adams Street. Mr. France stated that they are proposing a 12,277 SF addition. The Board of Health approved their application at the last meeting and Conservation hopefully will approve it at their next meeting because they did submit a draft Order of Conditions.

Ms. Bonventre stated that this is a difficult site and the conex boxes will all be removed. Ms. Kassner stated that there is a condition that the applicant will work with staff to discuss a bike path on this site. Mr. Ouellet replied that he would be agreeable to that.

Vice Chair Gaffney stated that all conex boxes must be removed. Mr. Ouellet stated that only one conex box remains and that will also be removed. Vice Chair Gaffney asked that Mr. Ouellet give the name of the conex box company so staff can contact them to let them know that permits are required in the Town of Burlington.

There were no questions from the audience.

MOTION - Member L’Heureux made a motion to approve the request for approval of a Site Plan application of Senate Construction, for property located at 15 Adams Street, to permit the construction of an 12,277 +/- square foot single story addition to the existing building and associated site improvements, as reflected on a plan entitled, “Site Plan for Industrial Building Addition 15 Adams Street Burlington, MA.,” prepared by Howard Stein Hudson, dated August 3, 2021, revised to February 10, 2022, consisting of eight (8) sheets, subject to the following revisions, terms and conditions as amended. The motion was seconded by Member Espejo and unanimously voted 6-0-0.

8. Minutes – 02/17/2022

Chair Rappaport stated that the minutes will be tabled until the next meeting.

9. Other Matters

9.a Discussion

9.a.1 MBTA Multi-Family Zoning Requirement for MBTA Communities

Ms. Kassner stated that they did a presentation to the Select Board. We are at 33% with units within ½ miles for a “T” stop. Clerk Raymond asked if we could do a MFD near the mall.

9.a.2 Master Plan Update

There was no update

9.b Correspondence

There was no correspondence.



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9.c Reports from Town Counsel

There were no reports from Town Counsel.

9.d Subcommittee Reports

9.d.i Sculpture Park Committee

Member L'Heureux stated that it only took 3 days to raise the money to purchase the cherry sculpture.

9.d.ii Housing Partnership

There was no update.

9.d.iii Recreation Commission

There was no update.

9.d.iv Economic Development Committee

There was no update.

9.d.v Transportation Committee

There was no update.

9.d.vi ZBRC Signage Subcommittee

There was no update.

9.e Unfinished Business

There was no update.

9.f New Business

Member Espejo stated that the last MAPC meeting discussed Metro Common 2025.

MOTION - Vice Chair Gaffney made a motion to adjourn the March 17, 2022 Planning Board meeting at 11:00 PM. The motion was seconded by Member L'Heureux and unanimously voted 6-0-0.

*Respectfully Submitted by Dawn McDowell,
Recording Clerk*