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TOWN OF BURLINGTON

Meeting Minutes

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DEPT. /BOARD: Conservation Commission

DATE: October 13, 2022

TIME: 7:00 PM

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

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

Member(s) absent: Jennifer O'Riorden

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

Approved at the October 27, 2022 Conservation Commission meeting.

THE MEETING WAS BROADCAST LIVE ON THE BCAT GOVERNMENT CHANNEL

1. Call Meeting to Order – Roll call of attendance

Mr. Cohen called the meeting to order at 7:00 PM and read out a statement about public participation and technology. On a Roll Call, Mr. LoTurco voted Present, Mr. Bernstein voted Present, Mr. Deb voted Present, Mr. Moffatt voted Present, Mr. Boivin voted Present and Chairman Larry Cohen voted Present.

Ms. O'Riorden was not in attendance.

2. Public Participation (fka Citizens' Time)

George Basler introduced himself but has no input at this time.

3. Approval of Minutes:

a. September 8, 2022

MOTION- To approve the minutes for the meeting of September 8, 2022. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 6-0-0.

4. Request for Certificate of Compliance

a. 59 & 61 Middlesex Turnpike – Nouria Energy Corporation – DEP #122-657

Mr. Tim Maguire, a wetland scientist and wildlife biologist on behalf of Nouria, explained the request to close an Order of Conditions in which no work commenced. The same applicant will



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be before the Commission later in the meeting for a new proposal but must receive the initial Certificate of Compliance (COC) first.

Neither Ms. Coleman nor the Commissioners had any objections to closing out the COC for the project at 59 & 61 Middlesex Turnpike, DEP #122-657.

MOTION- The close out the COC for the project at 59 & 61 Middlesex Turnpike, DEP #122-657. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 6-0-0.

b. 15 Dolores Drive – Sunshine Realty Trust – DEP #122-662

No one was present representing the project. Ms. Coleman reminded the Commission that they has issued an Order of Conditions (OOC) for a tear down and re-build within the buffer zone to BVW. The Commission visited the site on the previous day and confirmed the requested implementation of a fence, infiltration system, plantings, and a drip edge stone trench. She did not have any issues with the project as it stands and recommended issuing a Certificate of Compliance and the release of the posted bond.

MOTION- To issue a Certificate of Compliance for the project at 15 Dolores Drive- DEP #122-662. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 6-0-0.

MOTION- To release of the \$3,500 bond posted for the project at 15 Dolores Drive- DEP #122-662. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 6-0-0.

5. Request for Determination of Applicability

a. 1 Elizabeth Avenue – Stefanie Hamel – Clear, grade, enclose deck (continued from 9/8/2022)

Ms. Coleman explained that Ms. Hamel requested the grading and wall building be removed from this Request for Determination of Applicability (RDA), leaving only tree removal and deck enclosure under the current RDA.

Neither Ms. Coleman nor any Commissioners had any further issues with the proposal as it stands.

Ms. Coleman reviewed the draft. The applicant proposed to remove one ash and three Norway Maple trees and two spruce trees and to enclose the deck. The work was located within the 100' buffer zone of the BVW. The wetlands were flagged and shown on the plan. An OOC was issued in 2019 for the construction of this house which stated no fill shall be added to the lot after construction without filing a Notice of Intent (NOI) and that a permanent fence along the wetland edge shall be implemented to ensure there is no future encroachment on the wetland area. This was referenced to remind the applicants to cease dumping behind this fence.



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MOTION- To issue a Negative Conditional Determination under Burlington Bylaw Article XIV and the state Wetlands Protection Act. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 6-0-0.

b. 25 Blanchard Road (Mary Cummings Park) – The Trustees of Reservations – Replacement & extension of existing bog bridges and one timber bridge.

Two representatives from The Trustees were in attendance and spoke on behalf of the project: Mr. Chi Lin, Trails Specialist, and Jeremy Dick, Stewardship Manager. The project calls for the replacement of three existing bridges: two on a wetland trail and one on the tunnel trail, repairing and replacing the existing bog bridge while extending it 50' across a muddy section of trail. The decaying wood bridge that will be replaced with an aluminum frame wood deck 24' bridge.

MOTION- To issue a Negative Conditional Determination under Burlington Bylaw Article XIV and the state Wetlands Protection Act. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 6-0-0.

MOTION- To take item #6 on the agenda out of order due to technological difficulties. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 6-0-0.

6. Public Hearing – Notice of Intent under Burlington Wetland Bylaw – 69 Beaverbrook Road – DG Homes LLC – Demolish dwelling & construct new dwelling.

Mr. Kyle Cormier of Oxbow Associates was present to speak on behalf of the project. The proposed new home would be outside the 40' no built buffer by 9' and an infiltration system outside the no build buffer. There are 12 trees proposed to be cut and 10 plantings to replace the departing trees, they will be 5 red oak and 5 sugar maples. This is a filing under the Bylaw only as the wetland is isolated with no apparent outflows or inflows.

Ms. Coleman mentioned that there is an isolated wetland on the property. A retaining wall is proposed about 25 feet from the wetland with very little grading required. She wondered how the driveway runoff would be managed. It will be sloped to a stone trench and will provide a note to that effect.

Mr. Boivin recused himself from the Commission and joined the audience to speak from the audience as an abutting neighbor. He also recused himself from voting on this project.

Mr. William Boivin of 213 Fox Hill Road raised objections to the removal of a few small trees he claims to be healthy and act as a visual buffer between the properties do not need to be removed. The applicant had no objections to leaving the existing trees near the fence.



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An individual identifying as Mr. George Basler was present online at the meeting and did not want to give his address, expressed support for the plan.

Ms. Coleman read the draft review. The proposed project consists of demolition of an existing single-family residence shed and driveway construction of new single-family dwelling attached garage and driveway. The applicant proposed to remove 12 trees and to plant 10 native trees in the buffer zone the proposed work would be within the buffer zone in an isolated wetland pursuant to Burlington Bylaw Article XIV.

MOTION- To close the hearing for the project at 69 Beaverbrook Road Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 5-0-0.

MOTION- To issue a wetlands bylaw permit and approve the findings for the project at 69 Beaverbrook Road under Burlington Bylaw Article XIV. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 5-0-0.

MOTION- To require the posting of a performance bond in the amount of \$2,500 under Burlington Bylaw Article XIV for the project at 69 Beaverbrook Road under Burlington Bylaw Article XIV. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 5-0-0.

5. Request for Determination of Applicability

c. Sawmill Brook Conservation Area/Fox Hill School property – Aydin Khalifa (Eagle Scout project) – Install bog bridges

Mr. Aydin Khalifa of Burlington troop 103 and a senior at Burlington High spoke on behalf of the project. The project is to build walkways to enhance citizens' access to town conservation land at Sawmill Brook Conservation land. The bridges will consist of a pressure treated wood strapped to concrete footers to allow water to pass underneath and will be approximately 2' x 8'. There will be 8 bridges in total, one includes the repair and extension of an existing bridge, 4 will be replaced over a wetland area, and 3 bridges will go over a muddy section of trail. A metal sign near Fox Hill School will be updated with the new walkways and a more accurate map.

Mr. Keeley explained how Mr. Khalifa's original project was to improve the trail from Erin Lane to this area but the gas company would not allow that work. This is a great project.

Ms. Coleman read the draft Determination. The applicant proposed to install 8 elevated boardwalks over muddy patches on an existing trail within BVW and buffer zone in the Sawmill Brook Conservation Area and on the Fox Hill Road school property and to install three new posts and signs and replace 4 signs at the Area entrances, gas line and bridge. The proposed work will be completed within the 100' buffer zone and will not include new trails.



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MOTION- To approve a Negative Conditional Determination for the project at Sawmill Brook Conservation Area under Burlington Bylaw Article XIV and the state Wetlands Protection Act. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 6-0-0.

d. 22 A Street – Jeremy Brockman – Repair sidewalk, curbing, install bollards

Mr. Bill Doyle of C1.0 Engineering was present and spoke on behalf of the project. The property owner and architect were also in the audience. The property is at the corner of A Street and Middlesex Turnpike Extension. The project includes the rehab of an existing parking lot, the current pavement will be ground and overlaid, restriped and bollards will be erected. There will also be an ADA accessible ramp implemented. There will be no additional impervious area installed and the catch basins will be cleaned.

MOTION- To Issue a Negative Determination under Burlington Bylaw Article XIV and the state Wetlands Protection Act for the project at 22 A Street. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 6-0-0.

7. Public Hearing – Notice of Intent – 59 & 61 Middlesex Turnpike – Nouria Energy Corporation – Demolish gas station/convenience store & restaurant building and construct new gas station & convenience store – DEP #122-681

Mr. Tim Maguire a wetland scientist and wildlife biologist with Goddard Consulting was present along with engineer Mr. Andy Platt. The project is to construct a gas station and convenience store almost entirely within the Riverfront Area or Vine Brook. The plan includes a net reduction in the amount of impervious surface, an increase of greenspace including 140 shrubs and 20 trees to be installed. The underground gasoline storage tanks in this new iteration of the project will be moved further away from any current onsite resource areas.

The stormwater retention will not vary from the previously approved project, all runoff going to catch basins with deep sumps. The rooftop stormwater will go to an underground infiltration basin. The catch basins will be routed to a water quality unit that will drain into an existing swale. John Keeley pointed out that none of the pavement is proposed to be infiltrated – could some of the parking lot be infiltrated after pretreatment? Pat McLaughlin with Nouria Energy clarified that since this site is considered a land use with a higher potential pollutant Load (a LUHPPL), being a gas station, and it was industry practice and the New Hampshire practice not to infiltrate surface water from a LUHPPL, however Massachusetts does allow infiltration and will look into that.

Mr. Cohen asked for clarification as to why the applicant closed the previous application with a COC. The response was the Planning Board did not approve the previous application. The applicant will present in front of the Planning Board on November 3.



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MOTION- To continue the hearing for the project at 59-61 Middlesex Turnpike until the November 10, 2022, meeting. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 6-0-0.

8. Public Hearing – Notice of Intent – 49 Middlesex Turnpike – Clipper Holdings LLC – Demolish commercial building and construct new commercial oil-change facility – DEP #pending

Mr. Bill Lucas and Angela Batto of Bohler Engineering were present and spoke on behalf of the project, which is in the buffer to BVW and Zone 2. The plan involves the removal of an existing car maintenance facility and replacement with a new 1,500 ft² Take 5 oil change facility, parking areas, two entrances onto Middlesex Turnpike and associated utilities and a stormwater management system. The site will be graded towards four catch basins and runoff will then be piped to water quality units which will pipe into a subsurface infiltration system. The stormwater management system results in peaks rates and volumes in all design storm events and was sized based on 1” of water quality volume. The new building will be further from the wetland. The plan includes a reduction in impervious surface from 9,300 ft² to 7,300 ft² and an increase in green space on site.

Mr. Keeley expressed support for the plan and believes it would be a drastic improvement, but the Board of Health still needs to be briefed on the plan and be convinced that possible subsurface contamination is not an impediment to the stormwater management system. This sentiment was echoed by several other members of the Commission.

There was no one in the audience nor online that had any comments about the proposed plan.

MOTION- To continue the hearing for the project at 49 Middlesex Turnpike until the November 10 meeting of the Commission. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 6-0-0.

9. Administration

a. Planning Board comments

b. Subcommittee & staff reports and updates

c. Other business- The proposed changes to the stormwater bylaw were approved by Town Meeting and will help alleviate issues from flooding and ensure proper drainage on newly constructed residential properties.

Ms. Coleman explained a new program in town to “Adopt a drain” to recruit residents to keep watch on a drain near their property to ensure it is cleared of debris and can drain properly to help alleviate floodwater buildup. There are approximately 2,600 drains in town which poses



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logistical difficulties for the DPW, so enlisting citizens will be a valuable contribution to the town of Burlington.

Anyone interested in adopting a drain can find relevant information and sign up at the following link: [Adopt a Drain Program | Burlington, MA.](#)

d. Upcoming meetings: October 27, 2022 | November 10, 2022

MOTION- To adjourn the October 13, 2022, meeting of the Commission Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 6-0-0.

Respectfully submitted by Tom Prior, Recording Clerk