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Burlington Conservation Commission

**MINUTES OF DECEMBER 9, 2010
BURLINGTON CONSERVATION COMMISSION
APPROVED JANUARY 13, 2011**

Members Present: Gretchen Carey, Nedim Celik, Larry Cohen, Gail Lima,
Kerry Melanson, Ann McNamara

Members Absent: Indra Deb

Also Present: John Keeley, Conservation Administrator
Jodie Wennemer, Conservation Assistant

The meeting was called to order at 7:00PM by L. Cohen.

1. Citizens' Time

Ernie Zabolotne asked about the status of the Open Space & Recreation Plan as it is necessary to apply for some grant opportunities.

Mr. Zabolotne also informed the Commission of two parcels, 72a and 74 Muller Road, which are becoming available. They total 3.5 acres and are contiguous with the Thorstenson property on Muller Road. Muller Road Conservation Area could be connected to Mary Cummings Park if these two parcels were acquired for conservation purposes.

Mr. Zabolotne also stated that he thinks the best use for the Thorstenson property would be as an entrance to the Mary Cummings property.

L. Cohen thanked Mr. Zabolotne for bringing this to the attention of the Conservation Commission, which is always interested in the opportunity to acquire land.

Steven Keleti from the Friends of Mary Cummings Park asked when an article could be added to Town Meeting and was told that the deadline is Friday, December 10, 2010.

G. Carey stated that the Open Space & Recreation Plan is in process and hopes to have the final draft completed sometime in January.

2. Minutes – November 10, 2010

A MOTION TO APPROVE THE MINUTES OF NOVEMBER 10, 2010 WAS MADE BY G. LIMA. THE MOTION WAS SECONDED BY A. MCNAMARA AND APPROVED 5-0-1 (N. CELIK ABSTAINED).

**3. Request for Determination of Applicability
2 Maud Graham Circle – Michelle Forester
Residential Addition**

The applicant was not present for this meeting, so J. Keeley summarized the project. The applicant had received a building permit for enclosing an existing deck, creating a three-

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season porch, which is within floodplain and within the buffer zone of bordering vegetated wetlands. This is an after-the-fact filing and the work is already completed. Some members of the Commission visited the site and noticed some dumping of yard waste in the wetlands.

J. Keeley went through the findings and conditions for this project, and clearly stated that the homeowner is to clean up the yard waste in the wetlands.

A MOTION TO ISSUE A NEGATIVE CONDITIONAL DETERMINATION FOR THE CONSTRUCTION PROJECT AT 2 MAUD GRAHAM CIRCLE WAS MADE BY N. CELIK. THE MOTION WAS SECONDED BY A. MCNAMARA AND APPROVED 6-0-0.

L. Cohen requested that a letter be sent to the applicants in addition to the conditions, which explains the requirement to clean up the wetlands.

**4. Request for Certificate of Compliance
223 Middlesex Turnpike – Rakesh Kamdar
Parking Lot Improvements
DEP File # 122-451**

No one was present for this hearing. J. Keeley summarized the project which included parking lot improvements adjacent to Vine Brook. The applicants created a small rain garden in an area which was previously pavement. The Conservation Department has visited this site on numerous occasions and the site looked good.

A MOTION TO ISSUE THE CERTIFICATE OF COMPLIANCE WAS MADE BY G. CAREY. THE MOTION WAS SECONDED BY A. MCNAMARA AND APPROVED 6-0-0.

A MOTION TO RELEASE THE BOND FOR THIS PROJECT WAS MADE BY K. MELANSON. THE MOTION WAS SECONDED BY N. CELIK AND APPROVED 6-0-0.

**5. Minor Engineering Change
43 South Avenue
Hazardous Waste Remediation
DEP File # 122-433**

Dino Giudice, from Clean Harbors, was present and explained the project. Excavation and remediation of hazardous waste started 1998. They have found that the contamination on the north side extends an additional 75 or 100 feet beyond the original erosion control line. They have moved and replaced erosion control at this site and all is intact.

Anthony Andronico, LSP, was also present and available for questions.

J. Keeley had given permission to proceed with the work, after the installation of appropriate erosion control, under the previous permit. While the work is closer to one small pond, which has been approved to be filled in for another project, it is not closer to jurisdictional wetlands (BVW).

A MOTION TO HOLD A VOTE TO APPROVE MINOR ENGINEERING CHANGE WAS MADE BY N. CELIK. THE MOTION WAS SECONDED BY A. MCNAMARA AND THE VOTE WAS UNANIMOUS 6-0-0.

**6. Public Hearing – Notice of Intent
20 Maud Graham Circle – Patel Harish
Residential Addition**

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DEP File # 122-467

Dave Crispin Civil Engineer and Land Surveyor, from BSC Group Inc., was present.

The Patel family, the owners of the home, was in the audience.

D. Crispin described the project, which had been permitted by the Building Department, but was later found to also require a permit from Conservation.

D. Crispin explained that there is a deck and a new addition with crawl space foundation. FEMA has determined the floodplain to be at elevation 129 at this location, but D. Crispin believes that FEMA has been too conservative with their calculations.

D. Crispin stated that the Town Engineering Department has no record of any flooding in the Maud Graham neighborhood. Additionally, 2 years after the FEMA flood study was conducted, a 48" culvert was replaced with a 36" x 15" box culvert. D. Crispin calculated the floodplain to be at the 128ft. elevation. D. Crispin submitted revised calculations and a more detailed study after hearing comments from the Town Engineer but had not heard back on the second set of calculations.

J. Keeley stated that the Riverfront and Buffer Zone to BVW are not as imperative as the floodplain filling. This property is close to the edge of the FEMA floodplain delineation and FEMA maps are not necessarily totally precise. However, the opinion of the Town Engineer is something that the Commission should seek and we have not heard from him on the more recent calculations.

J. Keeley also made clear another point, that there appears to be some fill on this property and the previous elevation needs to be determined.

The Wetland Protection Act regulations do give the Commission the authority to weigh the evidence and determine if they agree with the engineers calculations.

J. Keeley noted that the silt fence is not toed in and there is a lot of dumping in the wetlands, both of which will need to be remedied.

L. Cohen summarized the two potential remedies: either the Commission becomes comfortable with the submitted flood-plain calculations or the foundation is opened up in such as was as to not hold back flood waters such as has been done at other projects. For the Commission to be comfortable accepting Mr. Crispin's revision of the floodplain, they would require a peer review of the calculations.

D. Crispin stated that break-away panels, no higher than 1 foot above the grade would be very easily done.

L. Cohen also noted that choosing to modify the foundation would save the homeowner the cost of a peer review.

G. Lima asked if there was any documentation of the fill. D. Crispin clarified that no fill was brought to the site. Excavated material had been spread across the yard. G. Lima also asked how the rooftop drainage was being handled. D. Crispin explained the crushed stone pit to which gutters are directed, which is depicted on the plan. G. Lima expressed her concern over the dumping that has occurred in the wetlands and recommends that there be bounds or signage or something to deter future dumping. She also stated that the existing silt fence needs to be repaired.

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G. Carey asked about the break-away panels, which are basically a large pet-door which would allow flood waters to penetrate the basement. G. Carey also stated that what she observed on the property looked like a lot of fill.

K. Melanson agreed and stated that she did not observe any flare of the tree stump. D. Crispin stated that the applicant can remove that small amount of fill. K. Melanson also expressed concern about the addition of topsoil, which will then add two more inches. She stated that the existing grade needs to be excavated to allow the addition of topsoil.

K. Melanson also pointed out some significant discrepancies on the elevations depicted on the submitted plans. D. Crispin stated he did not know how that happened but assured the Commission that the 129 elevation is correct.

N. Celik asked how the Commission will know how much fill was done and also asked how the Commission can ensure that the break-away is not closed in the future.

J. Keeley explained that test pits would show level of the fill and should show the former lawn.

L. Cohen stated that the Order of Conditions will be on file at the Registry of Deeds

A neighbor from 18 Maud Graham Circle addressed the Commission and would like to see the plans. He was directed to the Conservation Department at Town Hall where the file can be viewed.

G. Lima stated that while the ground is frozen now, the soil needs to be stabilized in some way. Warm weather is expected for next week.

D. Crispin stated that the yard slopes toward the wetlands, so runoff is not going to be flowing to the street.

L. Cohen stated that D. Crispin should make the necessary adjustments to the plan showing the break-away panels and the removal of a suitable amount of material to accommodate the proposed fill.

D. Crispin stated the applicant would accept the stated conditions.

L. Cohen again stated the Commission will need to see the changed plans.

J. Keeley also stated that if Town Engineer accepts and approves the revised calculations, the Commission should accept the new floodplain level.

This hearing will continue at the January 13, 2011 Conservation Commission meeting.

**7. Public Hearing – Notice of Intent
217 Middlesex Turnpike – B&D House of Carpets
Commercial Alteration
DEP File No. Pending**

Gene Sullivan, Engineer and Scott from B&D House of Carpets were present. The applicants were before the Commission previously to describe the proposed project.

Since presenting the project to the Commission the applicants have modified the plans to show the new location and enclosure of the dumpster and have added quite a bit of detail regarding the vegetated strip

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adjacent to Vine Brook. The applicants considered moving cars further away from the brook but were unable due to zoning. Some additional pavement is now proposed to be removed, essentially straightening the line of the parking lot at the edge of the river.

J. Keeley stated that the project is similar to 223 Middlesex Turnpike project. The one area of proposed improvement is at the lowest corner of parking lot. The applicants are proposing vertical granite at the edge of the vegetated area. J. Keeley informed the applicants that the proposed berm between filter strip and Vine Brook should not be installed as it is floodplain. J. Keeley also stated that the dumpster enclosure should be all the way around the dumpster and not just fenced on one side as shown on the plan.

G. Lima asked about the vegetated filter strip and if they were planting tolerant shrubs and woody vegetation. G. Lima also stated that the proposed maintenance should not include mowing or fertilizing, and that weed and pest control should not be used AT ALL on the site because of proximity to drinking water.

K. Melanson thanked the applicants for the reduction of pavement.

The Commission had no other issues or comments.

The Commission will close the hearing and issue the Order of Conditions at the next Conservation Commission meeting, on January 13, 2011.

The applicant requested that the Commission approve the project tonight as they had previously discussed it informally.

The Commission stated that the applicants can start work on the loading dock but they will not close until the next meeting.

**8. Public Hearing – Notice of Intent
Network Drive, Lot 10 -Nordblom Company
Assisted Living / Retail Construction
DEP File No. Pending**

Robert Buckley, attorney from Reimer & Braunstein, and Todd Freemont-Smith from the Nordblom Company were present. Steve Martorano and Jeff Malloy from the BSC Group were also present.

This site was previously approved for a development project. The site was cleared, the foundation put in, and then the project was abandoned.

S. Martorano described the current plan to the Commission. The applicants are proposing two retail pads flanking either side of the entrance to the site, which is directly across from current entrance to the main campus of Northwest Park. They are also proposing a Northbridge Assisted living facility at the rear of the property. There will be a heavily landscaping between the proposed retail and living area.

S. Martorano stated that the proposed rain garden is designed to hold just local rainfall. The detention and retention basins will be used for stormwater management. The applicants have reconfigured the parking at the request of the building inspector. The Board of Health has approved the proposed drainage. The Planning Board did not have many comments and seemed in a position to close the hearing.

Jeff Malloy presented the commission with revised plans for the site and described the 95,000 square foot assisted living facility and the two 8000 square foot retail pads proposed. An Order of Conditions was issued for the previous project in November or 2008 and wetlands were delineated at that time. The 123 foot elevation represents the flood plain.

They are not proposing any work within the 100 foot riverfront area and there will be minimal buffer zone impact. Within the 200 foot Riverfront area, 20,000 square feet of temporary and permanent impacts are

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proposed. 5% of the total riverfront area of the site will have disturbance, and that figure does not include stormwater management activities and construction which are 27,000 square feet and exempt.

Regulations require a wildlife corridor be maintained, so the applicants are proposing the detention basins be edged with rose-bushes as to maintain the wildlife corridor while meeting the Board of Health requirement that they entirely fence the basin.

J. Mallow explained that 2000 square feet of work is proposed in the 100 year floodplain, but the applicants are proposing a better than 1:1 compensation. They are also proposing to plant approximately 20 trees at the boundary of the Riverfront area.

J. Keeley stated that regulations allow for up to 10% of riverfront alteration per lot. J. Keeley stated that the applicants need to break down the disturbance by the lot, not for the whole project as shown.

R. Buckley stated that ultimately this site will be three lots and that the issued Order of Conditions would apply to the entire project.

L. Cohen asked about the alternatives analysis.

J. Keeley stated that as the lots will be created after 1996, the scope of the alternatives needs to include all other nearby parcels owned by the same owners. Also, Riverfront disturbance calculations state it is OK to exclude the stormwater basin as long as not possible to put it outside of the Riverfront area. J. Keeley stated they the applicants need to depict the current tree line on the plan.

L. Cohen asked if a wildlife evaluation was triggered for this site. J. Keeley stated that it was, 5,000 square feet of disturbance is the trigger and the Commission can require an evaluation.

J. Keeley also mentioned that low impact development techniques (LID) consideration is required, and that LID is not really proposed on this site.

S. Martorano explained that they are facing a constraint of soil and groundwater contamination and infiltration locations are limited. Initially they were considering more LID, but they are limited due to the contamination. They are also proposing high-use parking areas, which require pre-treatment before LID can be used. S. Martorano also stated they are facing a high ground water level.

J. Keeley stated that the Commission wants documentation from the LSP on the limitations for infiltration at this site.

G. Lima agreed that the submitted alternatives analysis was weak. The applicants should address why the locations for the buildings are as proposed. G. Lima reminded the applicants of the sensitivity of the area, being immediately adjacent to Vine Brook.

R. Buckley indicated that the applicants will include more detailed description in alternatives analysis and stated that the only place that assisted living is allowed on the campus is on this lot.

G. Lima expressed more concern over the retail pad locations.

G. Carey reiterated G. Lima's comments. G. Carey also stated that it was nice to see an assisted living facility in town and agrees that it is needed.

K. Melanson asked if the existing infiltration/detention basin will be used. S. Martorano explained that the basin cannot be used, but some of the piping will be.

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A. McNamara asked about the location of the assisted living facility on the site and T. Freemont-Smith explained that the layout of the roads is dictating where some of the buildings are going.

N. Celik had no comments at this point other than it seems an odd combination of uses.

L. Cohen stated that there hadn't been much discussion about the stormwater management on site, but will want to discuss it in detail at the next meeting.

S. Martorano mentioned briefly that they will reach full compliance for recharge with the infiltration basin, which is outside of the plume.

L. Cohen has concerns over the possible disruption in the continued hydrology to the wetlands. L. Cohen would also like to see the detention basin out of the 100 foot Riverfront and buffer zone. L. Cohen expressed concern about temporary impacts during construction and stated that comments from the LSP regarding groundwater contamination requirements should be submitted to the Commission.

J. Keeley pointed out that the reported TSS removal for the Stormceptor units is reported as larger than MassSTEP calculations. The applicants may need to go to larger Stormceptors. J. Keeley also wondered if the applicants can take TSS credit for infiltration basin and S. Martorano stated that he will look into it.

S. Martorano stated that the roof runoff is tied into the system after the Stormceptor, so it does not impact treatment. There are two points of discharge, which is an improvement to what was previously approved.

J. Keeley stated that pre and post runoff rates are typical and that what was submitted was not. The applicants submitted calculations of post-construction as they related to the master plan rates.

S. Martorano stated that the master plan set the thresholds for the campus.

R. Buckley summarized the major issues identified during the meeting:

- Alternatives analysis to address locations of stormwater management and wildlife issues
- Existing tree plan
- Why LID was not used
- LSP opinion of infiltration
- Hydrology to wetlands
- Discussion of groundwater treatment

L. Cohen added that the applicants should address why the retail pads are located where they are and asked the applicants to please consider a more sensitive design layout. L. Cohen also expressed concern about impacts during construction. L. Cohen also wants to the sizing Stormceptor systems to be addressed.

G. Lima indicated that pavement sweeping should be more frequent than proposed.

This hearing will be continued at the January 13, 2011 Conservation Commission meeting.

J. Keeley also pointed out additional issues to be addressed. The plans submitted are at different scales, there are no detail sheets of structures, and the 123ft contour should be depicted throughout the site on the plans.

**9. Continued Public Hearing – Notice of Intent
1 Pinevale Avenue – Riche Iovino/NIKLEA LLC
New Residential Construction
DEP File No. 122-465**

This hearing has been continued to January 13, 2011 Conservation Commission meeting.

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**10. Continued Public Hearing – Notice of Intent
3 Pinevale Avenue – Riche Iovino/NIKLEA LLC
New Residential Construction
DEP File No. 122-466**

This hearing has been continued to January 13, 2011 Conservation Commission meeting.

**11. Public Hearing – Notice of Intent
15 Westwood Street – HCR Construction
Demolition and New Residential Construction
DEP File No. Pending**

Bernard Hamill from HSTAR Engineering was present and explained that the existing building is dilapidated and hazardous. The intention of the applicant, HCR Construction, Inc. is to demolish the dwelling and two sheds to construct a new home. Caspian Associates did original wetlands delineation and Norse Environmental verified. The applicant is proposing a stone swale along side of the building which will be used for rooftop infiltration.

J. Keeley explained that approximately 1/3 of the property is BVW associated with the Ipswich River, as identified by FEMA maps, which is considered a river for its entire length. Conservation staff checked the wetlands delineation a couple of times and noticed some sensitive fern in a couple of areas upgradient of what was flagged. Wetland soils were also observed beyond flagging as well. J. Keeley stated the need to review the data sheets and said that he will want to meet with the wetlands scientist to tweak the delineation.

G. Lima and G. Carey agreed that the present condition is a mess and that it is best that the place be rebuilt.

K. Melanson asked about the adequacy of the stone swale for handling runoff and asked if the rooftop runoff was directed to the swale. B. Hamill stated that they were limited due to a seasonally high ground water level. The swale has really no storage capacity and that it is essentially for a cleanup area.

L. Cohen stated that the stone swale should be sized for the runoff being directed there. J. Keeley agreed and stated that the applicants need to ensure that the adjacent property is not flooded due to the changes on the property. L. Cohen recommended that the applicants extend the swale and update the plan before the next meeting.

J. Keely also suggested that Conservation staff meet with wetland consultant to review the delineation.

This hearing has been continued to the January 13, 2011 Conservation Commission meeting.

**12. Continued Public Hearing – Notice of Intent
90 Middlesex Turnpike – Dave & Buster's, Inc.
DEP. File No. 122-464**

Gene Crouch and Frank DiPietro from Vanasse Hangen Brustlin, Inc. were present to describe revisions to the Dave & Buster's project, which is still before the Planning Board. F. DiPietro explained that a Release Abatement Measure (RAM) plan for the site was filed this week.

The applicants are hoping to eventually have a shared driveway with the adjacent property to allow for a direct, lighted access, from the Route 3 off-ramp. To prepare for this possibility, the applicants have revised the plan to accommodate the parking they would lose to the shared driveway.

F. DiPietro explained that the modifications are to raise the building and provided parking beneath. F. DiPietro described the vehicular and pedestrian traffic plan for the site. There are 400 parking spaces provided

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with the current plan, which allows 30 spaces to be lost to shared driveway if necessary while still meeting zoning standards.

F. DiPietro explained that there is an overall reduction of impervious from previously submitted plan. The building and infiltration are both pushed forward on site, the roof and a small portion of parking area will be directed to the infiltration basin, designed to hold 100 year storm. F. DiPietro also stated that the plan now clearly shows that they are replacing existing catch basins at rear parking lot.

G. Lima expressed that she still hates the employee parking area as proposed. She also said that the trash in the parking areas should be addressed on a rigorous and regular basis and expressed concern over ease of dumping in the wetlands by residents.

K. Melanson again stated that a green roof would be great for Dave & Buster's. F. DiPietro said that he had suggested it to the architects, who say they will consider a white roof.

A. McNamara stated that she thinks this will be an interesting place but she wonders about the entrance and the future plans for sharing the driveway.

N. Celik asked about the proposed elevation changes. F. DiPietro explained that changes are limited to plus or minus one foot from existing grades due to the high ground water at this site.

L. Cohen asked how the drainage had changed. F. DiPietro explained that the location changed and is further forward on site and that there is less parking lot runoff going to the infiltrator. L. Cohen asked if any trees were proposed for the front of building and expressed his wishes for more than just lawn and pavement. F. DiPietro stated that the applicants would be open to a few trees in front. L. Cohen asked if the discharge to wetlands changed with the revisions, which it had not.

L. Cohen also asked about the status of the contamination on site. F. DiPietro said that he has a letter on file from the LSP of record stating that the contamination is pretty much removed. Basically, the contamination is downstream enough that this development will not impact the contamination.

J. Keeley asked about the status of the project with the Planning Board and other boards and was told that they are somewhat all set with most technical issues with the exception of the traffic analysis.

This hearing will continue at the January 27, 2011 Conservation Commission meeting.

13. Planning Board Comments

There are no comments at this time.

14. Administration

a. Upcoming Meeting Schedule

January 13, 2011 – K. Melanson will be absent from this meeting.

January 27, 2010 –

b. Other:

A MOTION TO ADJOURN THE MEETING WAS MADE BY K. MELANSON. THE MOTION WAS SECONDED BY G. CAREY AND APPROVED 6-0-0.

Minutes respectfully submitted by,

Jodie Wennemer
Conservation Assistant