



TOWN OF BURLINGTON
PLANNING BOARD MINUTES
SEPTEMBER 02, 2021

RECEIVED

By Town Clerk's Office at 9:32 am, Sep 17, 2021

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

Members Absent: None

Staff Present: Planning Director Kristin Kassner; Assistant Planner Brady Caldwell, and Principal Clerk Jennifer Gelinias (On WebEx)

1. Call the Planning Board Meeting to Order

Chairman Rappaport called the meeting to order at 7:00 PM. The Town of Burlington will be holding the August 19, 2021 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.

Mr. Caldwell stated that the option for remote participation via WebEx is being provided as a courtesy to the public. The meeting will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless otherwise required by law. 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 L'Heureux made a motion to take items "8.h" through "8.j" together and out of order for discussion purposes. The motion was seconded by Member Espejo and unanimously voted 6-0-0.

8.h Continued Public Hearing - Application for Approval of a Special Permit pursuant to 6.1.1.2 "Expansion of a nonconforming use" of the Zoning Bylaws – 207 Cambridge Street – Phase Zero Design, Applicant

8.i Continued Public Hearing - Application for Approval of a Special Permit pursuant to 4.3.2.15 "Storage and disposal of oils and fuels/ petroleum products" of the Zoning Bylaws – 207 Cambridge Street – Phase Zero Design, Applicant

8.j Continued Public Hearing - Application for Approval of a Special Permit pursuant to 4.3.2.16 "Storage of hazardous and toxic materials/chemicals for retail sale" of the Zoning Bylaws – 207 Cambridge Street – Phase Zero Design, Applicant

MOTION - Member L'Heureux made a motion to continue these matters to the Planning Board meeting of September 16, 2021 as requested by the Applicant in an email dated August 31, 2021. The motion was seconded by Member Espejo and unanimously voted 6-0-0.

MOTION - Member Espejo made a motion to take item "8.k" out of order for discussion purposes. The motion was seconded by Member L'Heureux and unanimously voted 6-0-0.

7.f Application for Approval of a Site Plan – 207 Cambridge Street - Federal Investment Trust, Applicant

MOTION - Clerk Raymond made a motion to continue this matter to the Planning Board meeting of September 16, 2021 as requested by the Applicant in an email dated August 31, 2021. The motion was seconded by Member L'Heureux and unanimously voted 6-0-0.



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2. Executive Session

MOTION - Clerk Raymond made a motion to enter into Executive Session, per G.L. c. 30A, § 21(a)(3), in order to discuss/consider strategy with respect to litigation in the matter of Russell, et al. v. Ivnikitskiy, et al., Middlesex Superior Court Docket No. 1981CV03376 where an open meeting may have a detrimental effect on the litigating position of the Planning Board and the Chair so declares, and further, to reconvene in Regular Session at the conclusion of the Executive Session as authorized by G.L. c. 30A, § 21(b)(4). The motion was seconded by Member L'Heureux and unanimously voted 6-0-0. On a roll call vote, Chairman Rappaport voted Yes, Vice Chairman Gaffney voted Yes, Clerk Raymond voted Yes, Member L'Heureux voted Yes, Member Impemba voted Yes, and Member Espejo voted yes.

3. Citizen's Time

No citizens came forward.

4. Announcements

Mr. Caldwell read the announcements. The Sculpture Park Grand Unveiling will be on Saturday, September 4th at 9:00 AM at the Burlington Sculpture Park. Labor Day is Monday, September 6th and all Town offices will be closed. The Board of Appeals will meet on September 7th at 7:30 PM at the Town Hall Main Hearing Room. The Zoning Bylaw Review Committee will meet on September 8th at 6:30 PM at the Town Hall Annex Basement Meeting Room and via Zoom. The Board of Selectmen will meet on September 13th at 6:00 PM at the Town Hall Main Hearing Room and via WebEx to discuss Placemaking in the Town Center w/ Melisa Tintocalis. Household Hazardous Waste Collection Day will be on September 18th from 8:30 AM – 12:00 PM at the Francis Wyman School.

Mr. Covino stated that there will be a ceremony on 9/11 on the common starting at 9:00 AM.

5. Legal Notices of Interest

There were no legal notices.

6. Non-Approvals

There were no non-approvals.

7. Administrative Matters

There were no administrative matters.

8. Matters of Appointment

8.a Continued Public Hearing – Petition to Rezone Property to the High-Rise Industrial (IH) District – 1 Rounder Way – Submitted by David Reinfeld and Lou Frate

David Reinfeld appeared for the continued public hearing to discuss changing the zoning for 1 Rounder Way from IG to IH district. Ms. Kassner stated that we would encourage redevelopment of this property. There is a lot of pavement on this site and it's close to wetlands. This corridor needs improvement and this site would benefit from it. They would recommend the following to Town Meeting. "Planning Staff would recommend adding a recommendation regarding the significant



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amount of excess pavement on site and need for flood storage in the area. The Planning Board recommends that the Property Owner prior to any new development or tenant shall reduce pavement on site for compensatory flood storage and improvement to the environment. Reduction of pavement and flood compensation allows for the ability to construct roadway and sidewalk improvements in the area to reduce flooding and further protect the adjacent wetland.”

Mr. Reinfeld stated that when they bought the building in 2008 they did not do anything to the outside except a new roof. He agrees that it needs work and they hope to develop this site for Life Science. The building is 2 stories and there is approximately 11’9” clear height on each floor. The building is approximately 36’ high and it has 235 parking spaces.

Member Impemba asked if the plan is to demo the existing building. Mr. Reinfeld stated that he is unsure. They would need to work with a developer and perhaps use some of the existing structure. Member Impemba asked what the total square footage is. Mr. Reinfeld replied there is 39,600 SF but they could go to 65,000 SF.

Clerk Raymond stated that the owners never knew what to do with this site and it’s had multiple uses. He would be in favor of the zoning change.

Vice Chairman Gaffney stated that if the zone wasn’t changed they could still demo the existing building and go up to 80’ and if it was rezoned they could go up to 90’. Ms. Kassner replied that was correct depending on the distance from the residential use. Vice Chairman Gaffney stated that he is concerned with additional traffic. Member Covino stated that the infrastructure needs to be improved and with the new development we can ask for mitigation because he doesn’t think the Town will put the money into road improvements.

There were no questions from the audience.

MOTION - Member Covino made a motion to close the public hearing on this matter. The motion was seconded by Clerk Raymond and unanimously voted 7-0-0.

David Webb, Town Meeting Member – Mr. Webb stated that he was trying to speak on this item.

MOTION - Member L’Heureux made a motion to re-open the public hearing. The motion was seconded by Member Espejo and unanimously voted 7-0-0.

Mr. Webb stated that he is concerned with the environmental impacts of this site and will be watching this site closely. He is also concerned if the building will be demolished a new 90’ high building could be constructed.

MOTION - Member Espejo made a motion to close the public hearing on this matter. The motion was seconded by Member Covino and unanimously voted 7-0-0.

MOTION - Member Covino made a motion to recommend **favorably** on Article #19, the petition to rezone property at 1 Rounder Way to the High-Rise Industrial (IH) zoning district including the recommendation from the Planning Board to Town Meeting. The motion was seconded by Clerk Raymond and voted 5-2-0. Member Covino, Clerk Raymond, Chairman Rapport, Member Espejo and Member L’Heureux voting in favor and Vice Chairman Gaffney and Member Impemba voting opposed.



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MOTION - Clerk Raymond made a motion to take items “8.b” through “8.e” together for discussion purposes. The motion was seconded by Member Covino and unanimously voted 7-0-0.

8.b Continued Public Hearing – Petition to rezone property to the High-Rise Industrial (IH) District – 1 Wall Street – Submitted by the Gutierrez Company

8.c Continued Public Hearing – Petition to rezone property to the High-Rise Industrial (IH) District – 2 Wall Street – Submitted by the Gutierrez Company

8.d Continued Public Hearing – Petition to rezone property to the High-Rise Industrial (IH) District – 10 Wall Street – Submitted by the Gutierrez Company

8.e Continued Public Hearing – Petition to rezone property to the High-Rise Industrial (IH) District – 20 Wall Street – Submitted by the Gutierrez Company

Scott Weiss from the Gutierrez Company appeared for the public hearing to discuss rezoning for 1, 2, 10 and 20 Wall Street to IH. Ms. Kassner stated that there are 2 articles submitted. Article #20 changes 1 and 20 Wall Street to IH and Article #21 changes portions of 2 and 10 Wall Street to IH. Mr. Weiss stated that they are preparing these areas for Life Science since this industry is growing. The business offices are becoming empty with leases ending. They are proposing only portions of 2 and 10 Wall Street to IH. The portions that have the buildings (retail and restaurant) will remain BG and the parking lot will be changed to IH. Ms. Kassner stated that most of the changes to IH is IG, this includes BG to IH. BG zone limits the types of uses.

Member Impemba stated that Life Science is not allowed in BG so he is concerned with only changing portions of 2 and 10 Wall Street and he would need to know the limits of these area. Mr. Weiss stated that there is not a lot of additional density. They could add 20,000 SF at 20 Wall Street and about 40,000 SF at 2 and 10 Wall Street. There is no expansion allowed at 1 Wall Street. They are proposing this change for branding and marketing effort for Life Science. Member Impemba stated that he is concerned with changing the zoning at 2 and 10 Wall Street. Mr. Weiss stated that they are not proposing building a new building here, this is for marketing the property. Member Impemba stated that it doesn't seem that the other uses mix with Life Science.

Vice Chairman Gaffney stated that he is still confused with only changing the parking lot areas. Mr. Weiss stated that if the retail and restaurant buildings were empty they would change the entire parcel. The parking for 1 Wall Street is zoned BG now. Vice Chairman Gaffney asked if a building could be built in the parking lot and the existing buildings to remain. Ms. Kassner replied that they could not keep both. Member Impemba stated that structured parking could be added and a building built on top so that way you could have both. Mr. Weiss stated that we only have 40,000 SF of capacity.

Clerk Raymond stated that seeing Life Science coming to Burlington is a positive and he would support these articles.

There were no questions from the audience.

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.

MOTION - Member Covino made a motion to recommend **favorably** on the petition to rezone the properties at 1 and 20 Wall Street to the High-Rise Industrial (IH) zoning district. The motion was



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seconded by Member Espejo and voted 6-1-0. Chairman Rappaport, Vice Chairman Gaffney, Clerk Raymond, Member Covino, Member L'Heureux, and Member Espejo voted in favor and Member Impemba voted opposed.

MOTION - Clerk Raymond made a motion to recommend **favorably** on the petition to rezone portions of property at 2 and 10 Wall Street to the High-Rise Industrial (IH) zoning district. The motion was seconded by Member L'Heureux and voted 0-7-0. The motion is defeated.

MOTION - Member Espejo made a motion to recommend **unfavorably** on the petition to rezone portions of property at 2 and 10 Wall Street to the High-Rise Industrial (IH) zoning district. The motion was seconded by Member Covino and voted 6-1-0. Chairman Rappaport, Vice Chairman Gaffney, Member Covino, Member L'Heureux, Member Impemba and Member Espejo voted in favor and Clerk Raymond voted opposed.

Member Covino stated that if the applicant pulls the article they could come back at a different time. Ms. Kassner replied that was correct.

7.1 Continue Public Hearing – To Amend the Zoning Bylaw by Renaming the High-Rise Industrial (IH) District – Planning Board, Applicant

Ms. Kassner stated that at the last meeting the straw poll of the Board liked (I) Innovation District but they wanted the whole Board to vote.

There were no questions from the audience.

MOTION - Member Espejo made a motion to close the public hearing on this matter. The motion was seconded by Member Covino and unanimously voted 7-0-0.

MOTION - Member Espejo made a motion to recommend **favorably** on Article #18, the petition to see if the Town will vote to amend the Town of Burlington Zoning Bylaws and Zoning Map by deleting the words “High-Rise Industrial” each time it appears in said bylaws and inserting the words “Innovation (I)” in place thereof, and further, deleting the word “(IH)” each time it appears or to act in any other manner in relation thereto. The motion was seconded by Member Covino and unanimously voted 7-0-0.

7.g Public Hearing – Application for Approval of a Special Permit pursuant to Section 4.2.6.10 “Restaurants” of the Zoning Bylaw – 75 Middlesex Turnpike (Burlington Mall) – Rosa Mexicana, Applicant

Attorney Mark Vaughn of Riemer & Braunstein LLP, Chris Westcott and Michael Kipfer appeared for a Special Permit for 75 Middlesex Turnpike for Rosa Mexicana. Attorney Vaughn stated that this space is the former Poseto on the food court side of the mall. Rosa Mexicana is an established restaurant with locations in New York, New Jersey and a spot in the Seaport in Boston. There are 167 total seats including 36 outdoor patio seats and will have the same layout as the previous restaurant. The patio seats were previously approved but never constructed. They have worked with the Building Department for the appropriate barriers. Mr. Westcott stated that they were looking to add a location for an upscale Mexican restaurant that focuses on regional specialties.



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Ms. Kassner stated that they have let the applicant know there is no dedicated parking spaces for takeout. This site is next to the Friendly Toast and there is no concern with the outside seats because there is no head in parking in this area.

Mr. Caldwell read the department comments.

Member L'Heureux asked if the patio will be used for 3 seasons. Mr. Westcott stated that they will probably use it from April to October depending on the weather. They will not enclose it and they will remove the furniture in the winter. Member L'Heureux asked if there are two entrances into the mall. Mr. Westcott replied yes, one will be for customers and the other is only an emergency exit.

Vice Chairman Gaffney asked what type of plantings would be used. Mr. Westcott stated that they will work with the mall landscaper so it will be similar. Vice Chairman Gaffney stated that he would leave the plantings approval to the Chair and staff. Will there be valet parking? Mr. Westcott replied it is not in the lease but they may look at it in the future. Vice Chairman Gaffney stated that would require coming back to this Board.

Member Impemba asked if there is an entrance off the patio. Mr. Westcott replied that it is enclosed due to the liquor license.

There were no questions from the audience.

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 7-0-0.

MOTION - Member Espejo made a motion to approve the request of Rosa Mexicano Burlington LLC for a Special Permit pursuant to Section 4.2.6.10 "Restaurants" of the Zoning Bylaw to permit the operation of a full-service restaurant (Rosa Mexicano) in an existing 3,967 +/- square foot tenant space with a total of 167 dining seats, for Property located at 75 Middlesex Turnpike in the General Business (BG) and Aquifer (A) Districts subject to the terms and conditions contained in exhibit "A" attached as amended. The motion was seconded by Member L'Heureux and unanimously voted 7-0-0.

9. Minutes – June 17, 2021 and July 15, 2021

MOTION - Member L'Heureux made a motion to approve the Planning Board minutes of June 17, 2021 as amended. The motion was seconded by Member Espejo and unanimously voted 7-0-0.

MOTION - Member L'Heureux made a motion to approve the Planning Board minutes of July 15, 2021 as amended. The motion was seconded by Vice Chairman Gaffney and voted 6-0-1. Member Impemba abstained from voting.

10. Other Business

10.a Discussion

10.a.i Discuss/Appointment to Select Board's Transportation Committee

Ms. Kassner stated that they don't have a schedule of meetings yet but they are looking for a volunteer from the Board. We should decide soon. Ms. Kassner stated that the Metropolitan Planning Organization is looking for a new regional representative. Woburn has always represented this area but they would like a new representative. The election is in October. The Town Administrator is already thinking about entering Burlington as the representative.



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10.a.ii Housing Partnership Update

Ms. Kassner stated that the committee spoke at the last meeting and they would like the Planning Board's support of their article at Town Meeting.

MOTION - Member L'Heureux made a motion to recommend favorably on Warrant Article #7, the petition to transfer from the affordable housing fund or otherwise provide the sum of \$TBD or any other sum to fund consulting services for an affordable housing needs assessment, same to be spent under the direction of the Town Administrator and the Housing Partnership, or to act in any other manner in relation thereto. The motion was seconded by Member Espejo and unanimously voted 7-0-0.

10.a.iii Sculpture Park Update

Member L'Heureux stated that there will be an unveiling on Saturday morning. The committee has reorganized because the Chair has stepped down. Member L'Heureux is now the chair and later in the month, they hope to set up a group Friends of the Sculpture Park so they can start a 501c and get more volunteers.

10.a.iv Illegal Signage

Member L'Heureux thanked staff for sending out the letters because most of the illegal signs in the Town Center have been removed. Ms. Kassner stated that Mr. Caldwell and the Building Department did all the hard work.

10.b Correspondence

There was no correspondence.

10.c Reports from Town Counsel

There were no reports from Town Counsel.

10.d Subcommittee Reports

There were no subcommittee reports.

10.e Unfinished Business

Ms. Kassner stated that the Winnview Heights will be before the ZBA on September 5th and they have not received an update from Town Counsel yet.

Ms. Kassner stated the Town Administrator will add the memo to Air BnB to the Select Board's agenda so Burlington will be flagged that they are not allowed.

10.f New Business

Member Impemba stated that Burlington was named one of the best family friendly towns.

MOTION - Vice Chairman Gaffney made a motion to adjourn the September 02, 2021 Planning Board meeting at 8:55 PM. The motion was seconded by Member Espejo and unanimously voted 7-0-0.

*Respectfully Submitted by Dawn McDowell,
Recording Clerk*