

**BURLINGTON BY-LAW ARTICLE 14
WETLANDS AND FLOODPLAIN PERMIT**

DEP NUMBER: 122-655

APPLICANT: Town of Burlington, DPW
c/o Meghan Cavalier

ADDRESS: 29 Center Street
Burlington, MA 01803

PROPERTY OWNER: same

ADDRESS:

PROJECT LOCATION: 70 Mill Street
Burlington, MA 01803

ASSESSOR'S MAP-PARCEL: 18-7

PUBLIC HEARING OPENED: March 11, 2021

CONTINUED HEARING DATE/S: March 25, 2021

PUBLIC HEARING CLOSED: March 25, 2021

DATE OF ISSUANCE: March 31, 2021

FINDINGS

Project Description:

The proposed project consists of the reconstruction of the Rahanis Park parking lots at 70 Mill Street in Burlington. Stormwater will be managed by swales (low impact development) that will be protected by new guard rails. The proposed work would be within riverfront area and the 100-foot buffer zone to bordering vegetated wetlands and bank.

Filing History:

A Notice of Intent was filed by the Town of Burlington Department of Public Works on behalf of the Town of Burlington on February 24, 2020. The application considered under Burlington By-law Article 14 includes that material submitted for the application filed pursuant to MGL Chap. 131, Section 40. A public hearing notice for the application was published in the "Daily Times Chronicle" on March 4, 2020. A copy of the hearing notice was posted in the Town Hall and given to the Board of Health, Planning Board, Town Administrator, and Town Engineer. The public hearing opened within twenty-one days of the receipt of the application. The continued public hearing was closed at the March 25th meeting.

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Plan Reference:

- “Title Page,” sheet 1 of 4, dated 2/22/21, signed & stamped by Thomas F. Hayes, P.E.
- “Existing Conditions,” sheet 2 of 4, dated 2/22/21, signed & stamped by Thomas F. Hayes, P.E.
- “Drainage,” sheet 3 of 4, dated 2/22/21, signed & stamped by Thomas F. Hayes, P.E.
- “Proposed Layout and Grading,” sheet 4 of 4, dated 2/22/21, signed & stamped by Thomas F. Hayes, P.E.

except as may be modified by conditions herein.

Wetland Values and Areas Subject to Protection:

The project involves work that will occur within the 200-foot riverfront area to the bank of Sawmill Brook, as well the 200-foot riverfront area to the bank of a locally regulated unnamed stream, which is a tributary to Sawmill Brook, and the 100-foot buffer zone to bordering vegetated wetlands and bank.

The Commission makes no finding as to the exact boundaries of wetland resources areas on site, as the work increases the setback to the stream. The unnamed stream to the south is not regulated as a “river” under the MA Wetlands Protection Act (WPA) or 310 CMR 10.00, however since this regulated stream is shown on the “Regulatory Streams Map” in the Burlington Wetland Regulations, dated January 2015, it has an associated 200-foot riverfront area under the Burlington Wetlands Protection Bylaw. The Commission did not require the resource areas to be located and flagged, thus they make no formal finding regarding the exact boundaries of the riverfront areas or wetlands in Rahanis Park. Work occurring within or in close proximity to resource areas can generate adverse impacts to these areas.

The net reduction in impervious surface across both the upper and lower parking lots will be 1,484 square feet, going from 57,346 square feet to 55,862 square feet. Approximately 600 square feet of impervious surface will be added in the Riverfront Area to the locally regulated stream while a small amount will be removed outside the Riverfront Area. Approximately 1620 square feet of impervious surface will be removed from the riverfront area of Saw Mill Brook. Thus the permitted alteration is under the maximum permittable (5000 ft² or 10% of total RFA). A total of 20,345 square feet of the resurfacing work will occur in the 200 foot Riverfront Area of Saw Mill Brook, while a total 20,966 square feet of resurfacing will be in the Riverfront Area to the unnamed brook.

The Commission also finds that there are no practicable and substantially equivalent economic alternatives with less adverse effects. The proposed option minimizes the amount of disturbance and impact to the riverfront area, while achieving the goals of the project to provide a more usable parking lot while infiltrating runoff. The proposed low impact development drainage system **will provide an improvement over existing conditions in the riverfront areas.**

The wetland resource areas on/near this site provide the following functions and/or values:

- Protection of public and private water supply
- Protection of groundwater supply
- Flood control
- Storm damage prevention
- Prevention of pollution
- Protection of wildlife habitat
- Protection of fisheries

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Stormwater Management:

There is no drainage system in place in the Rahanis park parking lots at present. An existing largely non-functional catchbasin will be removed. The upper and lower parking lots will each be pitched to swales. Each swale will contain a perforated pipe that will pitch towards the streams on both parking lots. The pipes will be covered with crushed stone, gravel and loam that will be seeded and the pipes will outlet into riprap before entering the stream. Area drains to take overflow in larger storms will also lead to the swales. The swales will be protected from cars by guardrails. The Commission finds that this low-impact development technique is an appropriate design. The applicant has indicated that the proposed redevelopment project meets, to the maximum extent practicable, standards outlined in the Massachusetts Stormwater Management Regulations:

1. Standard 1: The project will not create any new untreated discharges.
2. Standard 2: The project will slightly reduce peak rates and volumes of runoff compared with existing conditions.
3. Standard 3: Meeting to the maximum extent practicable.
4. Standard 4: The swales should improve TSS removal rates.
5. Standard 5: The use is not considered a land use with a higher potential pollutant load (LUHPPL).
6. Standard 6: The site is not within a critical area.
7. Standard 7: Project is subject to the Stormwater Management Standards only to the maximum extent practicable as a redevelopment project.
8. Standard 8: Erosion and sediment controls will be implemented during construction.

Failure to maintain drainage systems can result in adverse impacts to resource areas. The Burlington Conservation Commission requires that all Stormwater Management Structures be maintained in accordance with the Massachusetts Stormwater Management Guidelines and with the requirements set forth by the Conservation Commission and Board of Health.

Other Findings:

Most of swale along the lower parking lot will be within the 20-foot no-disturb zone, but within area currently paved. One tree near the Recreation Department storage shed will be removed.

The Commission finds that the removal of impermeable surface and provision of low impact stormwater management constitutes an improvement in the Riverfront Area. The applicant also agreed to remove trash, including asphalt and concrete, from the vicinity of Saw Mill Brook and the unnamed stream.

The Conservation Commission's action is predicated upon the full factual disclosure of all information relating to the proposed project during the hearing process. Should the Commission find that information relating to the areas under their jurisdiction was not provided, was incorrect, or was withheld, this decision may be found null and void.

The Conservation Commission, in assessing the proposed project and adopting conditions to protect those areas and interests defined in Burlington By-law Article 14, considers the following materials as a source of information for this evaluation.

Controlling Urban Runoff: A Practical Manual for Planning and Designing Urban BMPs, by Thomas R. Schueler, Department of Environmental Programs, Metropolitan Washington Council of Governments, July, 1987;

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"Wetlands Buffers: Use and Effectiveness", Washington State Department of Ecology, February, 1992, Publication #92-10;

"Basic Hydrologic Calculations for Conservation Commissioners: Runoff, Land Subject to Flooding, and Flow in Pipes and Channels", Department of Environmental Quality Engineering, 1987;

Wetlands, Mitsch, William J. and James G. Gosselink, Van Nostrand Reinhold, New York, NY 1993;

"National List of Plant Species That Occur in Wetlands: 1988 Massachusetts", Porter B. Reed, Jr., Inland Freshwater Ecology Section, U. S. Fish and Wildlife Service, St. Petersburg, FL, May 1988, NERC-88/18.21;

"Watershed Protection Techniques", Vol 1, No. 2, Summer, 1994, A Publication of the Center for Watershed Protection, Silver Spring, MD;

In order to protect sensitive areas, such as wetlands, land subject to flooding and inundation and streams, no construction will take place on site until the installation of wattles or hay bales and silt fence is complete. Protection of the resource areas is required at all times when demolition is ongoing in resource areas. Sediment barriers will be required and must be maintained at all times. Proper sediment barriers are: **twelve-inch wattles or hay bales bound with rope (organic twine)** staked with wooden (oak) stakes (at least two per hay bale) that have been driven at least six inches into the ground, and a sediment filter fabric toed in and staked into the ground. The sediment barriers may be installed in a common trench that is hand dug (within the Conservation Commission's jurisdiction) with the hay bales on the uphill side of the trench. Hand digging protects the resource areas during the installation of the barriers. These barriers must be installed before any other work begins on the site.

The Conservation Commission requires weekly inspections of the site by the applicant to assess compliance with the conditions adopted when the project is approved. These inspections shall be followed by a written report – **prepared using the format available on the Conservation Department webpage** – after every other site inspection. The purpose of the reporting is to provide timely assessments of the work, how it is being conducted, and to avoid where possible, adverse impacts to the natural areas being protected. In addition to requiring the inspections the Commission wishes to have them prepared and submitted in a timely manner. When this is not done the Commission will consider forfeiture of a portion of the required performance guarantee.

Any conditions in this decision, which may change plans, must be incorporated into construction plans. The failure to have clear, concise plans, reflecting the conditions adopted by the Conservation Commission, results in improper work at the site. A set of construction plans for the site needs to be on record with the Conservation Commission.

Burlington By-law Article 14 allows for stricter regulation of the wetlands, land subject to flooding and inundation, and water bodies than that permitted under the Wetlands Protection Act. It is the intent of the Conservation Commission to provide greater protection of Burlington's water supply, its residents and its valuable resource areas through this decision and stricter conditions will be imposed upon the applicant.

The issuance of an Order of Conditions by the Conservation Commission is done with measures imposed to protect the wetlands and other resource areas. If conditions are not met, damages to the resource areas may occur.

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DECISION

The Burlington Conservation Commission hereby grants conditional permission to the above noted applicant to conduct work pursuant to the provisions of Burlington By-law Article 14. This action, based upon the findings adopted in this document as well as the material provided to the Commission, is conditioned upon the Order of Conditions, numbering 1 through 49 granted pursuant to the provisions M.G.L. Chap. 131, Sec. 40 and the following conditions applicable to the work as requested under Burlington By-law Article 14.

CONDITIONS

1. Conditions 1 through 49 of the Order of Conditions granted to DEP File No. 122-655 as adopted by the Burlington Conservation Commission.
2. The applicant shall be fined for any applicable non-compliance with the Order of Conditions and/or the conditions herein. This may include a **\$300.00 per day per violation non-criminal penalty** issued under the Burlington Wetlands By-law Article XIV. Violations of conditions requiring certain construction procedures or precautions will be documented by a site inspection report and/or letter. Copies of this report will be made available to the applicant.