

## Burlington Conservation Board

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Jeff Severson  
Miles Waite  
Damon Lane  
Zoe Richards  
Stephanie Young*



## Conservation Board Meeting Minutes

Monday, January 9, 2017 – 5:30 pm  
Fletcher Free Library – Pickering Room  
135 College Street

### Attendance

- **Board Members:** Zoe Richards (ZR), Matt Moore (MM), Jeff Severson (JS), Will Flender (WF), Damon Lane (DL), Miles Waite (MW), Scott Mapes (SM), Stephanie Young (SY), Don Meals (DM)
- **Absent:**
- **Public:** Joel Banner-Baird
- **Staff:** Scott Gustin (Planning & Zoning)

MM, Chair, called the meeting to order at 5:32 p.m.

### Minutes

December 5, 2016 meeting minutes

SM noted on pg. 5, bottom paragraph, 2<sup>nd</sup> sentence, “disperse way” should be deleted and replaced with “out.”

JS noted on pg. 2 under JS, 2<sup>nd</sup> sentence should be “non-recusal” instead of “recusal.”

A MOTION was made by DM and seconded by MM:

Approve minutes of December 5, 2016 as corrected.

Vote: 9-0-0, motion carried.

December 19, 2016 meeting minutes

DL noted the motion at the end for Cambrian Rise – the project is not a model project. Intent is that CATMA membership could be a model for others.

WF, make clear where he took over as chair to make the record clear that MM recused.

A MOTION was made by MM and seconded by DL:

Approve minutes of December 19, 2016 as corrected.

Vote: 8-0-1 (JS abstained), motion carried.

### Board Comment

SG noted the sign-in sheet.

### Public Comment

None.

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### **Open Space Subcommittee**

ZR, the subcommittee did not meet this month. In February, she'd like to delve into the trails discussion. She's spoken with a number of folks – Nick Warner, Alicia Daniels, Jesse Bridges, Dan Cahill – since their last meeting. She'd like to see the Conservation Board take a leadership role. She also spoke with Brian Lowe of the Mayor's Office.

MM said he totally supports what ZR is working on.

MW asked if the Board could initiate an effort that might entail use of the Conservation Legacy Fund. JS, yes, it's possible.

### **Project Review**

- 1. 17-0662CA/MA; 75 Cherry St (Ward 3C, D) Devonwood Investors, LLC / PKSB Architects, PC**  
Mixed use redevelopment of the existing Burlington Town Center mall site and associated lot line adjustments

Don Sinex, Brian Dunkiel, Kevin Worden, Jesse Beck, William Fellows, David Salidino, Michael Willard, Jay Fayette, Nick Principle, Kurt Mueller, Jeff Zweber, Kevin Morrissey, Art Klugo appeared on behalf of the application.

Brian Dunkiel asked about whether MW would recuse himself. MW said he's done consulting for a neighboring landowner and is still working in that capacity. He does not know whether that would constitute a conflict in this case. He asked Board members for their thoughts.

ZR, we can end up with very skilled people stepping away from project review. We don't want to recuse all of the expertise off of the board.

WF asked if MW was employed related to this project. MW said he's involved in soils analysis.

Brian Dunkiel referred to the Board's bylaws about public perception of a conflict of interest. He said MW's work is germane to the pending project and could affect the Board's recommendation to the DRB. He thinks the conflict is clear and requests that MW recuse.

MW agrees to recuse. His judgement would not be clouded by his work. He will recuse at Mr. Dunkiel's request.

JS respects MW's decision but does not see a clear conflict of interest. ZR agreed. Mr. Dunkiel said he wants the process to be as clean as possible.

MW formally recuses himself.

Don Sinex overviewed the project.

William Fellows touched on the current status of the project – its scope and content. The garage has been scaled down. Since sketch review, phase 2 is gone, liner apartments on Bank and Cherry Street have been introduced, and the northern buildings on the base of retail, parking, and residential have been reduced down to 2, rather than 3, elements. The internal mall is gone. All of the retail faces outward towards the streets. Mr. Fellows overviewed the present exterior and interior layout of the proposed building. He noted the green roof as part of the green space requirement for development within the downtown mixed use overlay.

DM, is the roof a "green roof" in the technical sense? Mr. Fellow, yes. Mr. Fellows went on to point out the rooftop PV array.

Jesse Beck noted that the project is required to meet LEED "gold" standards. He laid out the building energy efficiency systems to the Board. All of the rooftop mechanical equipment will be enclosed. He

noted that the 10% ordinance requirement is being met with proposed green roofs – 10” deep sedum roof tray systems similar to that at the airport.

JS asked about the 10%. Mr. Beck said that 10% of the total site needs to have green space. Green roofs may be used to meet that requirement.

Kevin Worden summarized onsite stormwater management. Right now, about 1/3 of site runoff goes into the MS4 system. The rest goes into the combined system. As proposed, the project meets and exceeds the city’s and state’s permit requirements. The entire site will be taken out of the combined system and directed into the separate MS4 system. The city standards require consideration of the site as a “green field” as opposed to redevelopment of an already urbanized site. Reduced rate and volume, separation of roof runoff, and onsite storage are addressed in the stormwater management proposal. SM, is this in addition to the application materials? Mr. Worden, it is enhanced information recently compiled. We have also considered the “Great Streets” initiative for guidance.

Mr. Worden noted that under proposed conditions, new streets will be established. He noted proposed drainage patterns and the proposed green roofs. The green roofs will absorb 1’ of rain water. Permeable pavers will be set at ground level for infiltration. Large below grade tanks will collect runoff from the roads and roofs. Sediment will settle out, and stormwater will discharge at a controlled rate. A sand filtration system will be integrated into the system to provide water quality treatment for 100% of the site prior to discharge from the site. Mr. Worden pointed out a new rain garden along the street. The project will see a reduction in runoff even with the 100-year event.

SM, the flow calculations are based on 3.5 acres of impervious? Mr. Worden, yes, it’s about 3.5 including the buildings and new streets.

DM, the 3 tanks are entirely closed. There’s no reduction in volume. Mr. Worden, correct. Volume reduction is from the green roofs.

Mike Willard addressed the proposed landscaping. In large part, it amounts to new street trees. The proposal is consistent with the “Great Streets” initiative. They have worked extensively with the City Arborist. There will be large soil volumes for all of the new trees. Stormwater absorption will be enhanced. JS, does that mean a bigger, deeper hole? Mr. Willard, yes. As proposed, the trees will have 400-800 cubic feet of soil. Two varieties and red maples, a ginkgo, and an elm tree species are proposed. Street lighting will be BED city standard with LED lamps.

Kurt Muller, with Johnson Company, addressed soil contamination. Mr. Muller presented a table that summarized PAH and lead concentrations in soil from a number of sites in Burlington, in response to JS’s written question regarding off-site studies use by the applicant to extrapolate the extent and magnitude of soil contamination at the project site. The applicant has collaborated with VT DEC for over a year now on data gap analysis and a soil sampling plan. Site investigation will take place in early 2017. DEC will review and approve soil management measures. Mr. Muller noted existing urban soil concerns include PAH’s and lead. At other recent construction sites in Burlington, PAH’s in excess of the standard are much more common than lead. The project will minimize generation of excess soil.

WF, what kind of soils do you expect to find? Mr. Muller said that the site was redeveloped in the early 1970’s, and a significant amount of soil was removed from the site then. It’s possible that the soils could be clean. That said, atmospheric deposition may result in PAH’s in the soils.

JS would like to know the information behind the soils removal estimates associated with the originally proposed underground garage. Mr. Worden answered that the sketch plan numbers were general. Mr. Fellows said that the garage would have been \$57M in addition to the unknown cost of soils removal and disposal. Mr. Sinex indicated that the removal of contaminated soil would cost an additional \$23 M. Mr. Sinex indicated that the numbers don’t work to construct any underground parking, even if there is no soil contamination. The project cannot support that cost. He also noted that an estimated 9 months of trucking would have been required to haul away that much soil.

MM noted topics to address:

- Stormwater
- Landscaping/street trees
- Bikes/paths
- Open space
- Environmental issues/impacts on natural resources
- Green building category under the new overlay district

MM, has the city stormwater program reviewed this? Mr. Worden, yes, they've reviewed it. That have not yet issued a final approval. The proposal meets and exceeds Chapter 26, the new downtown overlay zone, and the state stormwater requirements.

WF, clogging of pervious pavers has been a problem in the past. Has the applicant discussed their utilization with the DPW? Mr. Worden said there have been ongoing meetings. Another is scheduled tomorrow. The city will take over maintenance as public streets. He will recommend that no sand be used to avoid clogging. Salt may need to be avoided as well. Pervious concrete installations have been failed. Pavers with pervious voids between perform better and will be used here.

SM, its good a large volume of stormwater is being taken out of the combined sewer. Are we comparing to 3.5 acres of meadow? Mr. Worden, yes. SM, is a 90-15 state stormwater permit need? Mr. Worden, yes. SM, it looks like a small percentage of runoff will go to the combined system. Please clarify. Mr. Willard noted that it's the small portion of the new city streets. It's offset by performance elsewhere and results in a net 0 contribution to the combined system.

JS requested that DPW's approval is sent to BCB. MM, do you expect approval prior to DRB? Mr. Worden, yes.

DM, a particular kind of green roof was mentioned earlier. Please provide specifics. You seem to be relying on the green roof to provide attenuation. Mr. Worden addressed the green roof open space requirement. No one anticipated lawn on this downtown site. The green roof will meet the space requirement and will also absorb and evapotranspire rain water. DM, volume reduction through evapotranspiration is not considered in the stormwater calculations. Mr. Worden said that green roofs, tree wells, rain gardens, and pervious pavements are all working towards volume reduction. DM, are any under drained? Mr. Worden, the green roof is. The pervious pavers are not fully designed yet, but they will connect with the tree wells. Rain gardens will likely have some drainage to capture overflow. DM, just concerned that excessive under-draining negates their volume benefits. Mr. Worden, the green roof is not accounted for in the stormwater model for volume reduction. It's icing on the cake. The model will be further refined in the state stormwater process.

DL, what are you proposing for the rain garden? Mr. Worden, the curb design along the new street will direct runoff into it.

JS, what about EPSC? There is potential for contaminated soils onsite. The EPSC lacked diagrams noting how/where contaminated soils would be stockpiled onsite. Mr. Worden said that there will be a large hole in the ground below grade. Things will be moving along quickly. Soil stockpiles will not remain long. Mr. Mueller said that the soils management plan underway with VT DEC will specifically address this concern. Certain measures such as covering the soil will be built into the plan.

DM, regarding the LEED certification, the score sheet, a great number of criteria are locational and connectivity related. These are conditions that anything on this site would automatically meet. Of the remaining criteria, what features are proposed that result in gold level? Mr. Beck said the energy and efficiency systems of the building are significant. The building envelope, heating and cooling systems. DL, you'll meet code and then LEED in addition. Mr. Beck, we will exceed Efficiency Vermont standards. Mr. Worden said that location amounts to maybe 10% of the total. Stormwater management, water management, insulation, energy, PV, green roofs, lighting are all factors.

SY, are there points for water conservation? Mr. Beck, yes. The charrette tomorrow will address that, in part.

SM, how significant is the PV array relative to energy? Mr. Fellows, it reduces the project's electrical demand. Mr. Beck said we have a general expectation now, but it will be refined. Mr. Fellows said about 20% reduction of impacts on the grid is expected.

MM, are you going with LEED? Mr. Beck, yes, 100%.

DL, regarding a district heating system, how will the building be constructed to be compatible with such a system? Mr. Sinex, the building will be constructed to accept such a system. It will have a boiler system initially. There's no district system in place yet. A feasibility study is underway. DL asked about cooling. Mr. Beck said there will be cooling towers and heat pumps. DL, the south tower has a lot of glass. Are there specific plans for the south-facing windows? Mr. Fellows, we're looking at the details about how to shade, whether internally or externally. DL, it would be a shame if all of the solar gain had to be shaded out. Mr. Beck, we're promoting use of natural daylight. We need to consider what's going on inside the building.

DM, the bike parking table in the application seems to show a very low requirement. Mr. Fellows, the standards are from the city's zoning code. MM, is the minimum exceeded? Mr. Fellows, the minimum standards are met and exceeded. DM, encourages the applicant to enhance provision of bike parking facilities.

WF, noted the elevator with capacity for folks with bikes. Mr. Fellows replied that there are two points of access into the garage. Bike parking is on the second level

SM asked for description of vehicle, bike, and pedestrian circulation along the new city streets. Mr. Fellows noted the wide sidewalks for pedestrians (about 2X the typical width). The proposed roadway will be wide enough to accommodate bikes in addition to vehicles.

WF, is the proposed parking in compliance with the city's minimum parking standards? Mr. Fellows, the minimum requirement is just above 700 spaces. We are proposing slightly more than that – mid 700's. David Saladino noted that the parking is predicated on an urban shared use model.

JS, regarding traffic analysis, some supplemental information appeared to be missing. Mr. Saladino said the complete traffic study has been provided to DPW and P&Z. JS asked if air pollution is something that is considered under state standards. Mr. Saladino, the site is not considered a point source of air pollution. JS, regarding noise, the memo from VHB focused on the Burlington Noise Ordinance. Would there be a significant difference to meet the noise criterion under Act 250? Mr. Dunkiel, there's no specific state standard. The city's Noise Ordinance has a standard. JS said that the state enabling legislation for Conservation Commissions places "scenic resources" within the purview of Conservation Commissions in Vermont. The BCB is empowered to consider such resources named by the state, in addition to addressing city project review requirements.

JS said the building height is an obvious concern. It was a very controversial item that touches on the scenic resources that are within the purview of this board. Mr. Beck noted that the height complies with the height limit established within the overlay. SG concurred that the proposed height is within the height limits established in the overlay.

Mr. Dunkiel advised the Board to focus comments on items to be considered by the DRB. He noted the form base code that was adopted as part of the zoning amendment. SG stated that Article 6 is specifically precluded from project review within the overlay. There are requirements as to dimensions, glazing, open space, stormwater, etc, but Article 6 design review standards are not considered.

DL asked about public access to the observation deck. Mr. Fellows noted the access point.

DM, finds a tremendous amount that is commendable about this project, but a lot of things are still evolving. He's a little troubled being asked to make a recommendation on something other than a final design. Can anyone give a sense of when everything will be nailed down? Mr. Fellows said he expects a DPW recommendation prior to DRB review in February. Mr. Beck said documents are being produced every day in order to move ahead.

JS concurred with DM. We've required final design from smaller projects. Mr. Worden said that the project has evolved for the better. As proposed, the project exceeds all of the applicable stormwater requirements. If there is concern about details as to meeting the standards, he can assure the Board that they are being met. He also noted DPW is a major factor here, as they will take over the new public infrastructure.

JS, will this information be wrapped up in short order? Can we preface our recommendation on having that information approved prior to DRB review? MM said with the overlay standards in place, there's not much room for comment unless they are way off. The standards are clear and require DPW review and approval.

DM is not willing yet to say that all of the standards have been met – the information is simply not there yet. He's willing to make a conditioned recommendation. MM said the overlay standards state exactly what needs to be done already.

JS, could the Board recommend approval subject to obtaining X, Y, & Z approvals?

SM, respects DM's comments relative to details. With the information presented today, he feels there are sufficient checks and balances in place to ensure the standards are met. Removal from the combined system is huge for a downtown development. Regarding stormwater, he feels we are in a position to make a recommendation to DRB. The requirements of the new zoning overlay are addressed in the application. JS, the explanation provided by SM satisfied JS's concerns regarding stormwater design.

ZR, one of the goals of the stormwater program and the city's stormwater standards are to expressly articulate standards rather than leave to subjective review.

A MOTION was made by WF and SECONDED by SM:

Recommend approval to the DRB with the following condition:

- We strongly encourage the applicant and the DRB to significantly increase the number of bike parking spaces.

Discussion:

JS will not support the project as presented. His questions related to contaminants in the soils were because of the representations made by the applicant in the Board's prior review of the project. The applicant indicated previously that he initially intended to construct all parking underground. Based on soil contamination testing results from other Burlington locations, the applicant represented that soils at the project site meet the definition of contaminated urban soils. Excavated soil, therefore, would require disposal of at an off-site landfill approved to receive contaminated soil. Removal would be cost prohibitive. Tonight the applicant indicated that underground parking would be cost-prohibitive in any event, even if contaminated soil is not present. JS stated that the applicant had not provided any new information to support the applicant's revised assertion that any underground parking would be too costly, even in the absence of contaminated soil. JS noted that Burlington's zoning language states that underground parking in this zoning district is "strongly preferred." JS questioned why any future applicant would do anything different other than assert that it's too costly to bury parking. Burying the parking could drop the building height by 50' – which would potentially address one of the primary concerns expressed by thousands of Burlington residents – that the height and mass of the proposed building are too great.

MM, how many levels are above-ground? Mr. Beck, 3.

DM, concurs with JS's statement regarding precedent about avoidance of underground parking.

Vote: 7-1-1, motion carried.

**Adjournment**

The meeting adjourned at 8:21PM.