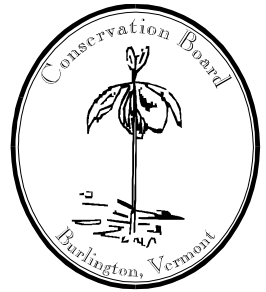


Burlington Conservation Board

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*Miles Waite, Chair
Zoe Richards
Don Meals
Matt Moore
Ryan Crehan
Hannah Brislin
Rebecca Roman
Tori Hellwig
Jules Lees*



Conservation Board Meeting Minutes

Monday, April 5, 2021 – 5:30 pm
Remote Meeting

Attendance

- **Board Members:** Zoe Richards (ZR), Miles Waite (MW), Rebecca Roman (RR), Hannah Brislin (HB), Jules Lees (JL), Ryan Crehan (RC), Tori Hellwig (TH)
- **Absent:** Matt Moore (MM), Don Meals (DM)
- **Public:** John Caulo (44 Lakeside Ave), Patrick Dunseith (Intervale Deer Management)
- **Staff:** Scott Gustin (Permitting & Inspections), Norm Baldwin, Susan Molzon, and Philip Peterson (DPW)

MW, Chair, called the meeting to order at 5:33 p.m.

Minutes

A MOTION was made by ZR and SECONDED by RR:

Approve the meeting minutes of March 1, 2021 as written.

Vote: 5-0-1, motion carried. (No HB yet)

Board Comment

TH mentioned a re-wilding opportunity in the city coming up this spring. Look for info from Dan Cahill. RR asked if it's through Parks & Rec. TH said yes.

ZR noted a city nature celebration coming up at the end of April. The City Nature Challenge is going on, and Burlington and Winooski are involved. Who can see the most species within a week using I-Naturalist? It's a global event.

RC mentioned the urban reserve sheet piling renaturalization project. He's met with David White and Cindy Wight, both are supportive. He'll follow up with an engineer to assess erosion potential if this is done. MW asked how it would be funded. RC said it would be through the Fish & Wildlife Service. MW mentioned nearby soil contamination, like at the Astroline site. Further north, there is less impact from the petroleum tanks.

HB appeared 5:45 PM.

Public Comment

None.

Open Space Subcommittee

ZR said there were about 75 attendees at last week's summit. Somewhere around 160 signed up beforehand. She thanked HB for pre-meeting advice on conducting the meeting. Lots of public input was provided. The meeting provided project background, potential target areas, and open Q&A. She

mentioned the Q&A material from the public around the five main topic areas. There was lots of interest in metrics around carbon sequestration and in additional data. Questions were raised about how we can get to our target of 50% tree canopy. Lots of questions and comments around incentives relative to tree planting and stormwater management.

RR said it was a good introduction for the community as to reshaping our mindsets for working with nature rather than having control over it. Equitable mindsets. She reiterated the requests for data around carbon sequestration. RR also mentioned the quality of life aspects of trees within our community. ZR noted health benefits of community natural areas too.

SG noted next steps for May (addendum outline) and June (draft addendum) and ongoing opportunities for public input and engagement through the spring.

ZR, what role does all of this have within the city's land use regulations (i.e. like tree clearing offsets)?

ZR also mentioned the mayor's willingness to sign on to the community and urban forest initiative as requested.

Update & Discussion

1. Slope stability report

Philip Peterson, Norm Baldwin, and Susan Molzon appeared for this item.

Norm Baldwin provided project background. The city has tried to identify and map areas of slope stability concern. That's what this study is aimed at. Some of the areas are located on private property and limit the city's ability to address problems that may occur. This Hoyle Tanner study establishes clear baseline conditions. This is the first comprehensive documentation of what's going on with slopes in the city.

Philip Peterson provided the Board with a presentation about the project. This project began in 2019 with Terracon and Hoyle Tanner. This project analyzed slopes at Northshore, Manhattan Drive, and Riverside Avenue. Existing conditions were examined, but no design work was done as to remedying identified unstable areas.

Mr. Peterson said that the slope at Northshore is stable but will be monitored annually. Manhattan Drive at Rt. 127 and at Champlain is also stable. It, too, will be monitored in the years ahead. Stormwater is involved with assessment and maintenance of the outfall.

Mr. Peterson said that the study looked at Riverside Avenue in 3 different locations. They all involve private property. We are limited as city staff as to what we can do on private property. Near Intervale Road, the slope is in urgent need of repair, but more information is needed. What data is available already and what might need to be done for further analysis like test pits and soil borings? At 386 Riverside Ave, the slope is also in need of urgent repair. More assessment and stability analysis is needed.

Norm Baldwin noted that the 3 properties have had problems at least since the October 2019 storm event and associated slope failure. That slope failure was somewhat superficial. There's concern that the banks will continue to be top loaded. They are under a zoning order to remediate the problem and are involved with an ongoing effort to address it. A city property is in the mix here. MW asked which one is the city parcel. Mr. Baldwin said it's the one behind the hitch business.

Mr. Peterson went on and noted that the property owners have allowed the assessment and have been involved in the ongoing effort. MW, don't most of the properties extend to the river? Mr. Baldwin replied that they do, except for where the city property is located.

Mr. Peterson said the last section along Riverside is further east and was found to be relatively stable. Further analysis and ongoing monitoring is needed. He said that the report has been shared with all of the property owners. The stormwater team is looking to improve and stabilize the stormwater outfall in this area. Mr. Peterson said that the full report is available online.

Mr. Baldwin talked about next steps. His authority as City Engineer is limited with respect to slope failures. He's working with the city attorney's office to expand his authority. His authority is articulated in the city charter. We need to think about requirements for slope assessment during permit application review. The city has a number of outfalls along slopes. They can cause scouring erosion and are in need of repair. The work will take time. Without question, a lot of these projects are located in difficult sites and are costly to fix. We need to continue to inspect these sites to catch changes or deterioration early on. This will be an ongoing effort.

MW said he's familiar with 505 Riverside Ave. Does this report take into consideration the analysis that has been done of this site already? Mr. Baldwin said that the work probably post-dates this report. We can go back to 505 and see how it fits into this report. MW asked, do you think that one way to address this is to remove the buildings along the north side of Riverside Ave and renaturalize the bank? Mr. Baldwin said that they have reached out to CCRPC to inquire about hazard mitigation grants. It's possible but not imminent due to the 2-year grant cycle.

RC, much of the soil from the slope failure is on city property now. Has the city done anything to address the slope failure? Mr. Baldwin, the property owners have been charged with developing a remedy. We also had to determine where the city property is in relation.

ZR, it sounds like there is urgent need here. Are the structures in danger? Who's liable if damage or injury occurs? Mr. Baldwin said that the three owners are involved. There are various factors of safety that could be achieved. The city is identifying the concern and making property owners aware and working with them. If people insist on development, we need to require professional geotechnical analysis. ZR, maybe the bar is too high for these property owners to fix it.

Mr. Baldwin said that the report has identified natural and artificial conditions. None of the areas are expected to fail in the next day or two. We are in early stages of design to fix the outfall.

RR, can you expand on requested authorities? Mr. Peterson said we have authority to issue dangerous building orders. The problem is that slopes are not included. We are working with the city attorney's office to have that legal authority. Mr. Baldwin said that slope stability problems tend to be hidden until it becomes obvious. We need to have the authority to conduct the analysis to determine the conditions. We also need to consider the limits to what government can compel someone to address.

RR, are there financial resources available? Mr. Baldwin mentioned the hazard mitigation grant program.

ZR, this area along Riverside Ave has had slides over the years. How confident are we that it won't happen again if we get heavy rains? How do we get in a position that we can do something about this before the next failure occurs? Mr. Baldwin said that we're exploring what the city needs to do as well as what the property owners need to do.

MW, we had an applicant less than a year ago that was considering development along Riverside Ave. We wanted to see that geotechnical analysis is done. He also mentioned the presentation by Paul Bierman. Maybe we can identify an overlay zone for increased geotechnical analysis for evaluation under zoning but also DPW. Mr. Baldwin said that he did evaluate that proposal and required determination of the property lines and a geotechnical and structural engineering analysis. He concurred with establishing standards for applicants.

ZR asked if CEDO has been consulted and could help with coordinating this effort. Mr. Baldwin said he'd reach out to inquire with them. ZR said they may be a good resource for identifying funding resources.

MW noted other nearby properties along Riverside Ave with site contamination issues. Maybe there's a way to coordinate with DEC as to soil borings on these properties – both for contamination and for slope assessment.

Project Review

1. 20-0729CA; 44 Lakeside Ave (ELM, 5S) Lakeside Ovens, LLC

Install a 30'diameter yurt at northern end of property. Relocate previously approved elevated deck @ west end of building #32 to SW corner of building.

John Caulo attended on behalf of the application.

Mr. Caulo said that one more structure – a yurt – is proposed. It will have no foundation, like the others. There is also a bath house building that's not depicted on this site plan (it was previously approved). The yurt is anticipated to be a contemplative space intended to compliment the yoga use in the area. The proposed location is within the lakeshore buffer.

ZR asked about the location of the bath house and the history of the 4 outbuildings and pavilion. SG noted the after-the-fact permit review for the 4 sheds. The proposed pavilion was also included but not yet built. The bath house was permitted separately and is outside of the lakeshore setback. ZR said she has some concerns with the incremental development along the shore.

RC said that during the review of the site redevelopment, there was applicant push back to any degree of shoreline renaturalization. Is any sort of mitigation being offered for continued encroachment into the lakeshore buffer? Mr. Caulo said that the property owner is a very responsible steward of the property. The proposed use is seasonal and very low impact. The primary purpose of this property is to serve as a job hub for the creative economy. A primary attraction of this property is its location – its connection to the waterfront and the historic use of the shoreline by employees. The prospect of conducting yoga classes has resonated with people working at the property. The yurt will be a wooden structure that does not anchor into the ground. He mentioned the site clean-up that has been done at the property as part of the redevelopment. There is no specific mitigation proposed for the yurt.

RR, there's no perception of mal-intention, but placement of a structure within the buffer does have adverse impact. Why can it not be located outside of the buffer? Why does it need to be where proposed? Mr. Caulo said that the northerly end of the site is narrow and fully within the lakeshore buffer. The water-oriented activities are located in this area, and the yurt will be part of that. SG noted that the aerial photo on display pre-dates the redevelopment of the property and does not depict present on-the-ground conditions.

ZR said that a sixth building is requested in this sensitive lakeshore area. The bathroom facility was approved because it was not located within the buffer. Mr. Caulo said that there was historically a bathroom facility here and had a failing onsite septic system. The present facility connects to the city sewer system. All of these outbuildings lack foundations and could be removed within a day if need be. The applicant has tried to have a light footprint.

MW said that the lakeshore buffer does not prevent development. It carries requirements for permit review. Some would like to see the shoreline naturalized, while others would like to provide lakeshore access. MW said the yurt doesn't seem like a big ask.

Mr. Caulo talked about the adjusted deck at building 32 Lakeside. The project has been scaled down to retain the existing building scale and footprint. No 3rd story is proposed now. The previously permitted deck will be adjusted to the southwest corner. The relocated deck is 31' from the lakeshore, more than twice the distance of the prior deck. An existing stand of cedars will remain. SG clarified the review is triggered by relocating the deck over green space, whereas the prior location was over impervious surface. Mr. Caulo stated that the deck will be elevated.

RC asked about the prior location. Mr. Caulo said that the pavers will remain, just without a deck. MW asked if the lakeshore green space will be mowed lawn. Mr. Caulo said that, through Act 250, some area along the sheet piling will be allowed to be more natural. The landscaping plan calls it out.

ZR said she sees no problem with the shift in the deck, but is more concerned with the yurt.

A MOTION was made by RR and SECONDED by JL:

Approve the deck relocation.

Vote: 7-0-0

MW said he feels the yurt is a lot like a tent. He doesn't see it being a big deal as to inhibiting wildlife.

HB said it's pretty common to keep camp sites away from the water's edge. ZR reiterated that the original four buildings were built before they were permitted. They were approved rather than forced to be removed. The area has gone from no buildings to 6 in a couple of years. RR said that there's a difference between a temporary structure and a permanent one that could be moved easily. It's about the structure and the related human impacts.

JL said we need to consider whose use of the lake is a stake here. Humans versus wildlife. We need to consider cumulative impacts on lake health.

MW suggested that a better plan along with a site visit may be worthwhile. Mr. Caulo is willing to do this.

RC said that one of the other outbuildings could be removed and replaced with the yurt.

MW asked about process. SG said the applicant could keep the two items together or split the application into two separate applications. The deck could be approved and the yurt review would continue in May.

Update & Discussion (cont.)

2. Intervale Deer Management

MW noted that there will be a follow up meeting with stakeholders about this item to get more into the weeds of process and next steps.

JL, is there a way to prioritize Abenaki access? Maybe talking with Chief Don Stevens would be worthwhile. SG said that it could be done. It really comes down to how the Intervale Center and other partners (if any) want to manage an archery hunt.

Patrick Dunseith said that the community deer advisor is very helpful and provides an adaptable framework for communities to build upon. He said that with the guidelines provided, the Conservation Board providing a venue for this discussion is very attainable. The eventual ask of the City Council would ideally come with the support of the Conservation Board.

RR, what do you see as the role of the Intervale Center? Mr. Dunseith, we have a strong interest in managing a deer hunt on the Intervale Center landscape. We don't have the capacity to affect city ordinance. We would be interested in a broader discussion of how hunting integrates into the community. The simplest ask pertains to the city's archery discharge ordinance.

ZR said that the ask to the City Council should be based in a holistic approach to deer management, rather than simply pushing deer to the next property. Is encouraging to see that other communities have struggled with this matter and have found a way forward.

Mr. Dunseith said that this effort can integrate well with nature based climate solutions. If the Conservation Board can agree to host a community discussion or survey as to deer hunting in the Intervale, we could achieve something in 2021. He suggested looking at deer management in Cayuga Heights in the community deer advisor. This could be another component of the NBS community outreach process.

SG recapped next to meet with stakeholders, figure out what's been done already, what needs to be done and who should be involved.

TH said she supports this effort.

Adjournment

The meeting adjourned at 7:51 PM.