

## Department of Permitting & Inspections

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**TO:** Development Review Board  
**FROM:** Ryan Morrison  
**DATE:** October 1, 2019  
**RE:** 20-1316CA; 180 Manhattan Drive

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**Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.**

Zone: RCO-C                      Ward: 3C/2C

Owner/Applicant: City of Burlington / City of Burlington Department of Public Works

**Request:** Import fill into the Special Flood Hazard Area as part of a previously approved repair/re-stabilization project for three stormwater outfalls that discharge to an area referred to as the 'Intervale Wetlands'.

### **Applicable Regulations:**

Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Criteria & Guidelines)

### **Background Information:**

Zoning Permit 19-1027CA was approved on July 10, 2019 for the repair/replacement of three stormwater outfalls, the stabilization of a steep, sandy slope above the outfall locations for safety, and for the restoration of wetland areas damaged by erosion issues. The overall project lies within a Riparian and Littoral Conservation Zone and a Wetland Conservation Zone. On July 1, 2019, the Conservation Board reviewed the application, and recommended approval as presented, which also includes follow up maintenance on plantings, clean fill, and clean equipment arriving at the site. The permit was then issued administratively.

However, now the applicant now proposes a slight modification to accommodate the stone toe-berm which involves 29 cubic yards of fill within the Special Flood Hazard Area. The overall toe-berm will protect the slope against erosion and increase the factor of safety for slope stability. Also, the berm was included as part of ZP19-1027CA, and as a result, the only thing subject to this DRB review and permit is the 29 cy of fill in the SFHA.

The property sits within the Special Flood Hazard Area. This location triggers review under the SFHA criteria of Sec. 4.5.4. Project plans have been provided to the state floodplain coordinator. The State Floodplain Coordinator stated that he has no comment or concern with the project as it is consistent with the *reasonably safe from flooding* provisions in Burlington's flood hazard regulations.

### **Background:**

- **Zoning Permit 03-248**; construct new, paved 3-meter wide, 3-mile long bike path along Route 127 between Manhattan Drive and the Ethan Allen Homestead. November 2002.
- **Zoning Permit 10-0976CA**; improve the entrance to the recreation path with landscaping, structure, fountain, curbing and gate. June 2010.
- **Zoning Permit 15-0605CA**; repair embankment along north side of Manhattan Drive with associated infrastructure and improvements. November 2014.
- **Zoning Permit 19-1027CA**; repair of existing eroded areas, restore wetland areas damaged by erosion issues, stabilize steep and sandy slope above the outfall locations for safety. July 2019.

**Recommendation:** **Consent approval** as per, and subject to, the following findings and conditions.

## **I. Findings**

### **Article 4: Zoning Maps & Districts**

#### **Sec. 4.4.6, Recreation, Conservation and Open Space Districts**

##### **(a) Purpose**

*The Recreation, Conservation and Open Space (RCO) Districts are intended to protect the function, integrity and health of the city's natural systems environment, provide for a balance between developed and undeveloped land, protect air and water quality, provide adequate open areas for recreation, conservation, agriculture, and forestry, enhance the city's quality of life and the aesthetic qualities of the city, moderate climate, reduce noise pollution, provide wildlife habitat, and preserve open space in its natural state.*

*The RCO districts are subdivided into three parts, and are further described as follows:*

*3) RCO-Conservation (RCO-C): The Conservation District is intended to preserve the function, integrity and health of the city's significant natural communities and features, both land and water, in their natural state for scientific, ecological, wildlife, educational or scenic purposes. The Conservation District may contain passive recreational opportunities where such activities are compatible with the protection of natural features.*

One of the goals of the overall project is to improve the stability of the steep sandy slope above the stormwater outfalls, as well as the outfalls themselves, in an effort to provide for a safe and well-functioning stormwater management system. Maintaining these systems is crucial in maintaining the City's function, integrity and health. **Affirmative finding.**

##### **(b) Dimensional Standards & Density**

Dimensional standards are unaffected by this project. Under Sec. 5.2.3 below, drainage ways are exempt from lot coverage requirements. **Affirmative finding**

##### **(c) Permitted & Conditional Uses**

Not applicable.

##### **(d) District Specific Regulations**

Not applicable.

#### **Sec. 4.5.4, Natural Resource Protection Overlay District:**

The project is located within a Special Flood Hazard Area (an area identified as such on the most current flood insurance studies and maps of the Department of Homeland Security, FEMA, and NFIP). As a result, the following criteria apply.

***(f) District Specific Regulations: Special Flood Hazard Area  
(7) Special Review Criteria***

**A. The danger to life and property...**

According to the applicant's submittal, the project will result in a negligible rise in flood levels – 0.02 inches to be precise – which is smaller than a single grain of sand. Because the area lies at an elevation approximately 100 ft below development along North Avenue and Convent Square, there is no danger to life and property due to any possible increase in flood heights. **Affirmative finding**

**B. The danger that material may be swept onto other lands...**

The area is located at a significantly lower elevation than nearby development - a difference of approximately 100 ft. Should any material be swept away, it will not pose a threat to nearby development. **Affirmative finding**

**C. The proposed water supply and sanitation systems...**

No changes to water and sewer systems are proposed. **Affirmative finding**

**D. The susceptibility of the proposed facility and its contents to flood damage...**

The proposed modifications should have no bearing on the susceptibility to flooding. **Affirmative finding**

**E. The importance of the services provided...**

The existing stormwater management service that the site provides is essential to the operation of the City. Overall, the proposal is to simply repair the facilities, and re-stabilize a steep slope to protect against erosion. **Affirmative finding**

**F. The availability of alternative locations...**

There is no other viable location since the stormwater management facility already exists in what is the most sensible location. **Affirmative finding**

**G. The compatibility of the proposed use with existing development...**

With the exception of Route 127 and the railroad track, there is no other development nearby. This is a natural area. **Affirmative finding**

**H. The relationship of the proposed use to the Municipal Development Plan...**

No new use is proposed. The proposal is to repair an existing stormwater management facility, where a very small portion of the overall project extends into the SFHA. **Affirmative finding**

**I. The safety of access to the property in times of flood of ordinary and emergency vehicles.**

There should be no need for access to the facility during times of flooding. In fact, the area is not typically accessed except for those on foot. **Affirmative finding**

**J. The expected heights, velocity, duration, rate of rise...**

The maximum regulatory flood elevation along in this area of the 'Intervale Wetlands' is 112' above sea level. Velocity of floodwaters here is not an issue. Water is more or less stationary as it

risers and falls. The duration of flooding and the rate of its rise depend entirely on spring snowmelt and precipitation events. Sediment transport is insubstantial. Sediment transport is associated with moving waterways such as rivers. The proposal will have no impact on flood height, velocity, duration, rate of rise, or sediment transport. **Affirmative finding**

#### **K. Conformance with all other applicable requirements...**

See Articles 4, 5, and 6 of these findings.

#### **Article 5: Citywide General Regulations**

##### ***Sec. 5.2.3, Lot Coverage Requirements***

##### ***b. Exceptions to Lot Coverage***

##### ***2. Drainage ways.***

The overall project (permitted under ZP19-1027CA) essentially involves repairs to, and preventative measures for, the existing stormwater drainage facility. **Affirmative finding**

##### ***Sec. 5.2.4, Buildable Area Calculation***

Not applicable.

##### ***Sec. 5.2.5, Setbacks***

Not applicable.

##### ***Sec. 5.2.6, Building Height Limits***

Not applicable.

##### ***Sec. 5.2.7, Density and Intensity of Development Calculations***

Not applicable.

##### ***Sec. 5.5.1, Nuisance Regulations***

Not applicable.

##### ***Sec. 5.5.2, Outdoor Lighting***

Not applicable.

##### ***Sec. 5.5.3, Stormwater and Erosion Control***

The project is specifically to protect an existing stormwater facility by stabilizing a steep slope to prevent erosion. There is less than 400 sf of ground disturbance proposed under this permit, so stormwater and erosion control review is not technically required. **Affirmative finding**

#### **Article 6: Development Review Standards**

##### ***Part 1, Land Division Design Standards***

**(Not applicable)**

##### ***Part 2, Site Plan Design Standards***

##### ***Sec. 6.2.2, Review Standards***

##### ***a) Protection of Important Natural Features***

The subject property is part of the larger 'Intervale Wetlands', located around Route 127 as it moves northward from the Old North End. Much of the 'Wetlands' are within the

Special Flood Hazard Area. The proposal will absolutely act as protection to this natural feature. **Affirmative finding**

*b) Topographical Alterations*

The 29 cy of fill is part of an approved toe-berm to prevent erosion of the steep slope above, an integral piece in erosion prevention. **Affirmative finding**

*c) Protection of Important Public Views*

Not applicable.

*d) Protection of Important Cultural Resources*

Not applicable.

*e) Supporting the Use of Renewable Energy Resources*

Not applicable.

*f) Brownfield Sites*

Not applicable.

*g) Provide for Nature's Events*

See Sec. 5.5.3.

*h) Building Location and Orientation*

Not applicable

*i) Vehicular Access*

Not applicable.

*j) Pedestrian Access*

Not applicable.

*k) Accessibility for the Handicapped*

Not applicable.

*l) Parking and Circulation*

Not applicable.

*m) Landscaping and Fences*

Not applicable.

*n) Public Plazas and Open Space*

Not applicable.

o) *Outdoor Lighting*  
See Sec. 5.5.2.

p) *Integrate Infrastructure into the Design*  
Not applicable.

***Part 3, Architectural Design Standards***  
**Not applicable**

**II. Conditions of Approval**

1. The site modifications shall be reasonably safe from flooding and be:
  - A. Designed and adequately anchored to prevent flotation, collapse, or lateral movement during the occurrence of the base flood;
  - B. Constructed of materials resistant to flood damage;
  - C. Constructed by methods and practices that minimize flood damage; and
  - D. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
2. The Applicant/Property Owner is responsible for obtaining all necessary state and federal permits.
3. The Applicant/Property Owner is responsible for obtaining all necessary Zoning Permits and Building Permits through the Department of Public Works as well as other permit(s) as may be required, and shall meet all energy efficiency codes of the city and state as required.
4. Standard permit conditions 1-15.