

Department of Permitting & Inspections

Zoning Division
645 Pine Street
Burlington, VT 05401
Telephone: (802) 865-7188

William Ward, Director
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
vacant, Associate Planner
Joseph Cava, Permit Technician
Ted Miles, Code Compliance Officer
vacant, DPI Administrator



TO: Development Review Board
FROM: Scott Gustin
DATE: January 3, 2023
RE: ZP-22-611; 834-922 North Avenue

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-RG Ward: 4N

Owner/Applicant: City of Burlington / Michael Schramm

Request: After-the-fact tree cutting associated with emergency stormwater outfall repair.

Applicable Regulations:

Article 5 (Citywide General Regulations)

Background Information:

The applicant is seeking approval after-the-fact for tree cutting associated with an emergency stormwater outfall replacement done in November 2022. A zoning permit is required because the pertinent tree maintenance plan has expired. A new tree maintenance plan is being sought under separate application.

The affected area is at the northeast corner of the intersection of North Avenue and Route 127. An emergent and worsening gully associated with a failing stormwater outfall necessitated emergency replacement of the outfall and associated tree cutting required to perform the work.

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

I. Findings

Article 5: Citywide General Regulations

Sec. 5.5.4, Tree Removal

(a) Review criteria for zoning permit requests for tree removal

(1) Grounds for approval

Tree removal involving six (6) or more trees, each of ten (10) inches or greater in caliper or the removal of ten (10) or more trees, each of which is three (3) inches or greater in caliper during any consecutive twelve (12) month period may be permitted for any of the following reasons:

A. Removal of dead, diseased, or infested trees;

Not applicable.

B. Thinning of trees for the health of remaining trees according to recognized accepted forestry practices;

Not applicable.

C. Removal of trees that are a danger to life or property; or,

Not applicable.

D. As part of a development with an approved zoning permit.

The tree cutting included in this application was associated with development. In this case, the development, as noted above, was emergency replacement of a failing stormwater outfall. Given the location of the outfall and the wooded conditions of the site, clearing of the trees was required to perform the work. The site has been stabilized for the winter months with regeneration of vegetation expected in the springtime. **(Affirmative finding)**

(2) Grounds for denial

Tree removal involving six (6) or more trees, each of ten (10) inches or greater in caliper or the removal of ten (10) or more trees, each of which is three (3) inches or greater in caliper during any consecutive twelve (12) month period may be denied if existing healthy trees are known to be:

A. Providing a significant privacy or aesthetic buffer or barrier between properties;

Not applicable.

B. Providing stabilization on slopes vulnerable to erosion;

The presence of vegetation around the outfall likely moderated the amount of erosion that may have otherwise occurred. As noted above, the site has been stabilized for the winter months and will revegetate in the warmer months. **(Affirmative finding)**

C. Located within a riparian or littoral buffer;

Not applicable.

D. Provide unique wildlife habitat;

Not applicable.

E. A rare northern Vermont tree species as listed by the Vermont Natural Heritage Program; or,

Not applicable.

F. A significant element or, or significantly enhances, an historic site.

Not applicable.

II. Conditions of Approval

1. Standard permit conditions 1-15.