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## TOWN OF BURLINGTON

### *Planning Board*

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**MEMO TO:** Amy E. Warfield, Town Clerk

**FROM:** Planning Staff

**DATE:** June 17, 2019

**RE:** Decision – Application for Approval of a Site Plan – 328 & 330  
Cambridge Street – Iconic Capital LLC, Applicant

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At its meeting of May 2, 2019 the Planning Board made the following motions, approving the above referenced Application:

**MOTION** – To close the public hearing on this matter.

**APPROVED - 6-0-0**

**MOTION** – To approve the request of Iconic Capital LLC (“Applicant”) for approval of a Site Plan Application, for property located at 328 & 330 Cambridge Street, to permit the construction of a one-story 21,500+/- gross square foot office building with associated site and utility improvements, as reflected on a site plan entitled, “Proposed Office Building 328-330 Cambridge Street Burlington, Massachusetts,” prepared by BSC Group dated January 23, 2019, revised to April 25, 2019 (“Site Plan”). The project is subject to the following terms, revisions and conditions:

***Administrative conditions:***

1. During the public hearing for this project, the following plans and materials were submitted to the Planning Board by the Applicant and are contained in the Planning Board’s reference library, and are a part of the public record on which the Planning Board makes its decision:

<b>Materials</b>	<b>Prepared By</b>	<b>Submission Date/Revision Date</b>
Site Plan Application and Cover Letter	Rierner & Braunstein LLP	January 23, 2019
Site Plan entitled “Proposed Office Building 328-330 Cambridge Street Burlington, Massachusetts”	BSC Group	January 23, 2019; April 25, 2019
Floor Plan entitled “Proposed office Building 328 Cambridge Street Burlington MA”	Roth & Seelen Inc.	January 17, 2019
Stormwater Report entitled “Cambridge Street Office Building 328-330 Cambridge Street Burlington, MA 01803”	BSC Group	January 23, 2019; April 4, 2019
Trip Generation Memo “328-330 Cambridge Street Proposed Office Development, Burlington, MA”	BSC Group	January 22, 2019
Utility Infrastructure Analysis “328-330 Cambridge St. – Burlington, MA”	BSC Group	January 23, 2019
Traffic Impact and Access Study	BSC Group	March 2019
Zoning and Use Memo	Rierner & Braunstein	April 12, 2019
Parking, Stormwater, and Tenant Memo	Rierner & Braunstein	April 26, 2019

2. The Site Plan shall be revised to show the following prior to endorsement by the Planning Board:
  - a. All sidewalks and crosswalks shall comply with ADA requirements, including curb ramps, unless otherwise provided for in this Decision.
  - b. The drainage maintenance plan shall be referenced in or directly added to the plan set in the form of a note.
  - c. Additional plantings proposed between the reserve parking and the Murray residence to the north.

- d. Revised drainage systems in the front and rear of the site.
  - e. Manufacturer's cut-sheet depicting type of retaining walls across the site.
  - f. Fencing type(s). Any chain-link shall be black in color.
  - g. The Applicant shall depict areas of snow storage. These areas must be on pavement and/or areas that have been designed for storm water treatment. Snow storage shall be in areas that vehicular site distance will not be impacted. If snow exceeds this area it must be removed from the property to ensure adequate parking capacity on site.
  - h. Noise from above ground utilities shall be attenuated at property lines. Details shall be provided to the Planning Director.
  - i. Contingent upon and subject to MADOT approval and conditions, provided any MADOT conditions are reasonably acceptable to the Applicant, the Applicant shall construct a minimum of a 5-foot sidewalk across the entire frontage of the property on Cambridge Street. Sidewalk shall be cement concrete with vertical granite curbing, and otherwise shall be constructed to the specifications used by the Town of Burlington in constructing sidewalks in the Town. The Planning Board prefers that the new sidewalk along the frontage of the property include a grass strip between Cambridge Street curb line and sidewalk, (minimum of 2-feet) on Cambridge Street, also subject to MADOT approval.
  - j. If necessary and subject to paragraph 2i above, a pedestrian/sidewalk easement along frontage along Cambridge Street to MADOT, if needed to accommodate the full-size side walk including a grass strip between sidewalk and Cambridge Street; provided such easement shall be subject to M.G.L. c. 21, § 17C.
  - k. The Reserve Parking areas should be clearly marked as such on the plan.
  - l. Pedestrian street lights shall be added along the frontage of the property. Final design to be reviewed and reasonably approved by the Planning Director.
3. The Applicant and/or Property Owner shall submit one (1) record mylar of the Site Plan for endorsement by the Planning Board within two (2) weeks of filing the decision with the Town Clerk. Upon endorsement of the record Site Plan Mylar by the Planning Board, the Applicant shall return the Mylar to the Planning Board office with two (2) sets of black line prints and (1) electronic PDF of the endorsed plan within two (2) weeks of such endorsement.
4. The Applicant, Iconic Capital LLC, has offered and the Planning Board accepts to the following during the public hearing process.
- a. On-site drainage at the site shall be enhanced as specified on the site plans resulting in compliance with current Massachusetts DEP storm water standards.

- b. Contingent upon MBTA approval, and provided any MBTA conditions are reasonably acceptable to the Applicant, the Applicant will replace the existing bus shelter with the Town Standard Brosco shelter, outfitted with MBTA branding in accordance with specifications to be provided by the Town/MBTA. The bus shelter must be ordered prior to the issuance of the Certificate of Occupancy. Completion of this work shall not be a condition of the issuance of a certificate of occupancy for the Office Building provided the Applicant is progressing in good faith to complete the work subject to this paragraph 4b, including without limitation that the Town/MBTA has provided any required specifications. If the bus shelter is not completed prior to the certificate of Occupancy, the Applicant shall provide a timeline of expected completion and contact list of responsible parties.
  - c. The Applicant has offered \$5,000 toward public art to be paid to the Town as directed prior to the issuance of a certificate of occupancy for the Office Building.
  - d. Construction of a sidewalk along the northerly side of Chestnut Avenue at the property line with 336 Cambridge Street from Rt. 3A to Wilmington Road, provided any third-party grantee of any easements to the Town for such sidewalk construction as noted below, has the benefit of M.G.L. c. 21, § 17C. The sidewalk shall be concrete with vertical granite curbing, a minimum of five feet in width, or less where approved by the Town to navigate around any obstacles, provided the existing right-of-way is adequate to accommodate the width requested, or the Town secures any and all rights from private parties in order to meet these requirements, and provided that trees shall be relocated within the public right-of-way. Further, completion of this work shall not be a condition of the issuance of a certificate of occupancy of the Office Building provided the Applicant is progressing in good faith to complete the work subject to this paragraph 4d, including without limitation that the Town has provided any required third-party rights. Design to be reviewed and reasonably approved by the Planning Director. Any trees removed from public land/public right-of-way shall be replaced in and around the area, upon public land/right-of-way one for one not less than 1 inch caliper. Subject to paragraph 6, below, all maintenance and liabilities shall remain with the Town following the construction the sidewalk pursuant to this paragraph 4d. If the sidewalk is not completed prior to the certificate of Occupancy, the Applicant shall provide a timeline of expected completion and contact list of responsible parties.
5. The Applicant and Property Owner shall be considered advised of the Department of Environmental Protection (DEP) moratorium restricting changes in use and increases of discharge into existing sewer lines. Prior to the commencement of any construction the Applicant should analyze sewerage flow using Title V in current & proposed conditions to determine required sewer allocation.
6. In regards to the construction of the Sidewalks noted in Section 2(i) and Section 4(d) of this Decision, the Applicant shall include the following warranties within contract with the Contractor, the Contractor will:

- a. Warranty the installation of all concrete flatwork for a period of one (1) year from the date of installation, or the last installation date in the event of a large pour over multiple days, for any damage or defects caused by poor product, installation methods/techniques, or other issues that arise within the warranty period. The Contractor will also warranty the work for a period of three (3) years against spalling, from de-icing chemicals.
  - b. Once the Contractor is notified they will be required to repair or remove and replace any damaged concrete Sidewalk, under the direction of the Town Engineer, the repairs will be required in a timely manner. Failure to complete the work in a timely manner, as agreed upon by the Town Engineer, could result in the Contractor to be considered in breach of contract and be barred from being awarded any future contracts directly with the Town, or be required to complete the warranty work before any work can begin on a new contract directly with the Town.
  - c. In the event that warranty work is undertaken by the Contractor, as directed by the Town Engineer, then the warranty timeframe will reset and start back at time zero (0) from the date of repair/replacement by only for that portion of the Sidewalk that is repaired/replaced.
  - d. Be responsible for repairing any damage to adjacent areas of the concrete Sidewalk, as a result of their work to repair/remove the concrete Sidewalk, at no additional cost to the Owner or the Town. All necessary repair work will be dictated to the Contractor by the Town Engineer.
7. Transportation Demand Management (TDM) strategies can reduce the number of vehicle trips made to the site via encouraging alternate modes of travel. The Applicant or Occupant shall implement reasonable transportation demand management initiatives, consistent with market place standards, including but not limited to the following:
- i. Transit Incentives: Employees of Applicant/Occupant can use pre-tax earnings to purchase monthly bus, subway, and commuter rail passes.
  - ii. Ride matching: The Applicant/Occupant assists employees in finding other commuters with whom to carpool.
  - iii. Emergency Ride Home: This program provides a ride home to employees who take transit to work but cannot use it to go home because of an unexpected change in plans. This “safety net” removes some of the reservations employees may have about using transit.
  - iv. The Applicant/Occupant shall consider joining a local Transportation Management Association serving Burlington, such as the Middlesex 3 Coalition TMA.
  - v. Upon the approval of the Reserve Parking, the Applicant shall explore the installation of electric vehicle charging spaces on site, but shall not be required to install such equipment.

- vi. The Applicant/Occupant shall advise all employees of all services offered. The Applicant shall also advise visitors of the area bus routes that provide service.

***Departmental Conditions:***

8. The Applicant and/or Property Owner shall adhere to the following recommendations from the Board of Health:
  - a. The Applicant shall complete sub-slab soil testing and analysis when the building is razed. A minimum of three samples will be collected with one sample taken from the area beneath the oil tank. The Board of Health may require additional soil and groundwater sampling upon review of the sub-slab soil testing program.
  - b. Solid waste encountered during site development activities must be removed from the site and must be disposed of in compliance with applicable regulations.
  - c. Fill material may not be brought on site prior to approval from the Board of Health. The Board of Health will require that fill material be free of asphalt and debris and that documentation indicating the source of the fill material be provided. Prior to approval, the Board of Health may request soil sampling and analyses be conducted and/or documentation from a MA Licensed Site Professional that soil has been managed and characterized according to the MA DEP Similar Soils Provision Guidance (WSC #-13-500).
  - d. The Owner shall complete a Board of Health Pre-Demolition/Pre-Renovation Inspection Checklist prior to demolition of the site building.
  - e. Test pits in the proposed areas of subsurface infiltration must be performed and be witnessed by a Board of Health representative. Test pit logs shall be submitted to the Board of Health.
  - f. Storm water and Run-off Management Plan Submittal Form must be submitted in conformance with the Board of Health Regulations for Storm water and Runoff Management.
  - g. The Owner has submitted a Storm water Report prepared by BSC Group, dated 1/23/19 revised through 04/05/19, which contains a Long-term Pollution Prevention & Operations Maintenance Plan. The maintenance schedule contained therein. Records of inspections and maintenance must be available for review by the Board of Health upon request.
  - h. Should any underground storage tanks be identified during Site development, the Board of Health must be notified and an assessment must be performed in accordance with MA DEP Policy WSC-402-96.
  - i. Should releases of oil and/or hazardous materials or other environmental conditions of concern be encountered during proposed site activities, the Town of Burlington Toxic and Hazardous Materials Bylaw requires that the Board of Health be notified

immediately. Site construction must cease until Board of Health approval to resume is provided.

- j. Should any septic systems or system components be identified during Site development, the Board of Health must be notified and soil samples must be collected from the soils surrounding the system components. Any identified septic systems or system components will be required to be properly pumped and decommissioned in accordance with applicable Board of Health and MA DEP Title V regulations.
  - k. Should any underground injection control wells be identified during Site development, the Board of Health must be notified and an assessment must be performed in accordance with the “Massachusetts Closure Guidance for Underground Injection Control (UIC) Wells”, effective date July 3, 2008.
  - l. If any future tenant has chemicals or hazardous materials present onsite in quantities totaling 220 pounds (30 gallons) or more, a Hazardous Materials Registration Form must be completed for submittal to the Board of Health, in which all chemicals and hazardous materials used onsite would be listed and the storage locations indicated on a plan.
  - m. No blasting will occur on-Site without Board of Health notification. If blasting is proposed, the proponent will have to obtain a permit from the Fire Department.
  - n. The Site will meet DEP and Burlington storm water and erosion control standards during construction.
  - o. During demolition and/or construction work, dust, odor and noise control plans should be in place.
  - p. Following approval of recommendations by the Board of Health, any changes in site plans or environmental conditions will be submitted to the Environmental Engineer or other Board of Health representative to determine whether or not another appearance before the Board of Health is required.
9. The Applicant and/or Property Owner shall adhere to the following recommendations from the Fire Department:
- a. Fire Sprinkler System to be reviewed/approved by the Fire Department
  - b. Fire Alarm System to be reviewed/approved by the Fire Department
  - c. Layout/placement of fire hydrant to be reviewed with the Fire Department
  - d. Dumpster Permit required per 527 CMR 1.00
  - e. Knox Box required

10. The Applicant and/or Property Owner shall adhere to the following recommendations from the Engineering Department:

***Water Comments***

- a. Any water meter greater than 5/8 inches will need to be properly Right-Sized and the calculations should be submitted based on AWWA M22 standards to show that the existing or proposed water meter is sized properly. (Either change of use or not having a Neptune E-Coder).
- b. The installation of the water meter should be installed in a location that is unobstructed and easily accessible.
- c. Prior to the issuance of any utility permit, the Applicant must have their meter configuration diagram approved by the Department of Public Works.
- d. The applicant should apply to the DPW Office for approval of any backflow prevention device for irrigation systems, fire suppression systems, chemical injection systems or any other case which backflow prevention is required.
- e. All commercial properties must schedule a cross connection survey prior to any final sign off on the Certificate of Occupancy by the Department of Public Works. All backflow control devices found to be needed must be installed and tested prior to signoff for the Certificate of Occupancy by the Department of Public Works.
- f. Location of triple gate system in Chestnut Ave is depicted as 12"x6"x12", Town of Burlington records show that the water main in Chestnut Ave is 8".

***Sewer Comments***

- g. The applicant should analyze sewage flow using Title V in current & proposed conditions to determine required sewer allocation. If there is a change in use or expansion the Applicant should submit necessary floor plans and seating plans to supplement the sewer allocation calculations.
- h. Determination of compliance with MWRA pretreatment and/or discharge permit.

***Stormwater Comments***

- i. Any project that increases the impervious areas shall have a storm water management system, which shall be designed to mitigate any increases in rate and volume of storm water. The project's storm water management system shall be designed so as to not increase the peak rate of runoff or volume of storm water in the 2, 10, 25 and 100 year storm events. This project increase the impervious area and therefore all necessary calculations must be provided listed below in the drainage calculations section.

- j. The project's storm water management system shall comply with the Department of Environmental Protection's (DEP) Stormwater Management Policy and requirements of Town of Burlington Department of Public Works Street Opening/Utility Connection Rules and Regulations.
- k. All storm water BMPs will be inspected by design engineers and certified that built in compliance with plans. Also need documentation including photos, field books entries, and engineer's daily reports.
- l. Any proposed sedimentation control devices within the Town's Right of Way, must be maintained, inspected, cleaned and replaced as necessary to prevent possible flooding issues during rain events. Once all work is done, and approval is granted by the Town of Burlington Conservation Commission/Department, any sedimentation control devices MUST be removed by the Applicant as soon as possible.

***Drainage Comments***

- m. Ownership as well as O&M of all storm water systems and BMPs should be clearly stated on the plans to avoid confusion in the future regarding responsibility of the storm water management facility.
- n. Infiltration field dimensions make and model and number of units should be stated on the plans.
- o. Drainage calculations containing soil information, percolation rates, and seasonal groundwater elevations should be submitted as part of the drainage system design. The following supplemental information should be submitted:
  - i. Narrative summarizing pre/post flow conditions, system design, and results.
  - ii. Existing sub-basins plan.
  - iii. Design points @ limits of property during pre/post conditions.
  - iv. Time of Concentration flow path lines depicted on the sub-basin plan.
  - v. Comparison table of pre & post flows.

***General Comments***

- p. All materials, within the public Right of Way, will comply with Town Standards as set forth in the Town of Burlington Department of Public Works Street Opening/Utility connections Rules and Regulations.
- q. As-built plans should be submitted on Mylar (no larger than 24" by 36," a D-size print) upon completion of the project.

- r. All existing and/or proposed utilities should be clearly and accurately labeled (size, material, existing/proposed, rim, invert, etc.) on the drawing, reflecting the most updated utility connections and sizing.
  - s. During construction care should be taken to maintain separation of at least ten (10) feet, horizontally from the edge of sewer services to the edge of water services. Where a horizontal separation of ten (10) feet is not practical, both services can be installed closer to each other, but the water service must be eighteen (18) inches higher than the sewer service, per DEP standards. (See Massachusetts Water Laws, Chapter 9, Section 9.8)
  - t. Provisions for an enclosed dumpster pad and dumpster should be depicted upon the plan sets. The long term and perpetual care of the dumpster, including the emptying, and the enclosure will be the responsibility of the property owner.
  - u. All handicap parking signs must meet the requirements of MGL, Part I, Title VII, Chapter 40, Section 22A, and clearly and legibly display the following message; “Handicapped Parking, Special Plate Required. Unauthorized Vehicles may be removed at Owner’s Expense.”
  - v. Applicant must schedule preconstruction meeting with the DPW/Engineering Division prior to the start of work.
11. The Site will meet MADEP and Burlington storm water and erosion control standards during construction.
12. During demolition and/or construction work, dust, odor and noise control plans should be in place.

***Pre-construction Conditions:***

13. Prior to the start of construction, a construction staging plan shall be submitted to the Building Inspector, the Planning Director and the Traffic Safety Officer for review.
14. The Applicant shall provide the name and contact information for the project manager to the Conservation Department, Building Department, Planning Department, and Town Engineer.
15. The Applicant and/or Property Owner shall provide twenty-four (24) hour notice to pertinent Town departments, including Inspector of Buildings and the Engineering Staff, prior to commencing any work on the site, which requires inspection by Town Staff.
16. If construction activity on or off-site is proposed within areas subject to the jurisdiction of the Conservation Commission, the Applicant and/or Property Owner shall comply with all conditions of any Order of Conditions issued by the Conservation Commission. In the event that the conditions of the Conservation Commission necessitate any revision to the approved Site Plan, the Applicant and/or Property Owner shall be required to submit a revised plan for Planning Board approval in accordance with the Planning Board's Site Plan Rules and Regulations.

***Construction Conditions:***

17. During construction work, dust, odor and noise control plans should be in place.
18. No construction activity shall be permitted prior to 7:00 AM nor after 7:00 PM on Monday through Saturday, and no construction shall be permitted on Sunday.
19. The Applicant and/or Property Owner shall use appropriate measures to protect materials and any adjacent drainage structures from erosion and sedimentation during any excavation.
20. All improvements shall be constructed in accordance with the Site Plan. No deviations from the Site Plan shall be permitted without prior authorization from the Planning Board. The Applicant and Property Owner are advised that no field modifications may be made without preliminary authorization from the Planning Staff and/or Planning Board Chairman. Unauthorized deviations from the Site Plan may result in the Planning Board seeking the issuance of a Cease and Desist Order until the deviation is addressed. All proposed changes require review and approval by the Planning Board prior to the issuance of any certificate of occupancy.

***Conditions for Certificate of Occupancy (CO):*** Subject to Section 2 of this Decision:

21. Prior to the issuance of any final Certificate of Occupancy (CO), the Applicant and/or Property Owner shall submit one (1) Mylar, three (3) paper copies, one (1) electronic PDF copy, and one (1) CAD drawing files on disk (compatible with the Town's CAD systems) of an as-built plan of all underground utilities (including telephone, electric, gas, water, sewer, storm drainage) to the Planning Board. The as-built shall include horizontal ties and depth of and/or elevation of any handholes, manholes, valves, gates, cleanouts, tees, elbows, bends, rim and inverts, etc. to fixed points of reference. The as-built plan shall also include any specific infrastructure operation and maintenance requirements, a brief outline of the drainage maintenance agreement approved by the Town, and any other pertinent information requested by the Planning Board.
22. All handicapped parking shall be properly posted in accordance with the requirements of the Americans with Disabilities Act. All handicapped accessibility improvements shall comply with the Massachusetts Architectural Access Board Rules and Regulations.
23. All landscaping shall be installed as indicted on the Site Plan, or landscaping plan prior to the issuance of a temporary certificate of occupancy. Alternatively, the Applicant may provide a bond or cash surety to cover the amount of materials and installation of the incomplete landscaping if weather conditions do not permit the completion of the landscaping prior to the anticipated occupancy.
24. The Applicant and/or Property Owner shall install exterior and interior lighting visible from the outside in accordance with the following requirements:
  - a. All new exterior building and parking lot lighting shall not to shine upward or onto adjoining properties or public roadways; provided it is acknowledged and permitted that required sidewalk lighting will illuminate adjacent public lands.

- b. Exterior lighting shall be shut off during daylight hours.
- c. All new exterior lighting fixtures except certain required sidewalk lighting, shall be fully shielded and dark skies compliant.
- d. Any exterior lighting not required for security purposes shall not be operated between midnight and 6:00 a.m.
- e. All exterior lighting shall be white and constant in color and consistency.
- f. No electric moving signage, digital or illuminated wall art shall be permitted.

***Ongoing Operational and Management Conditions:***

- 25. The Applicant shall comply with the Storm water management Standards and Best Management Practices promoted in the Massachusetts Department of Environmental Protection's current Storm water technical Handbook.
- 26. The Applicant shall follow all health and safety standards and regulations established by federal, state, and local authorities, including the Environmental Protection Agency (EPA), the Massachusetts Water Resource Authority (MWRA), and the Massachusetts Department of Environmental Protection Agency (MassDEP).
- 27. Parking space paint markings and handicapped parking signage shall be maintained bi-annually or as necessary to be visible to site users. All crosswalks and traffic control markings shall be thermoplastic to ensure long term durability.
- 28. The Applicant and/or Property Owner shall be advised that should releases of oil and/or hazardous materials or other conditions be encountered during proposed site activities that warrant notifications of the Massachusetts Department of Environmental Protection (MassDEP).
- 29. The Applicant and/or Property Owner shall use reasonable efforts to utilize the best available water conservation technology to minimize the demand for drinking water and sewer capacity by this facility.
- 30. The Applicant and/or Property Owner shall implement a litter patrol and trash maintenance program to help prevent the accumulation of trash and debris on the premises, and to help keep and such trash and debris from blowing onto neighboring areas and roadways.
- 31. No signage is permitted except that has been approved by the Town including off-site, temporary, and permanent signage.
- 32. All landscaping shall be maintained in a healthy condition in perpetuity and be maintained and trimmed to ensure adequate sight distance entering and exiting the property.

**APPROVED – 6-0-0**

cc:

Inspector of Buildings  
DPW/Engineering  
Police Department  
Fire Department

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