

Department of Planning and Zoning

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TO: Development Review Board
FROM: Scott Gustin
DATE: November 7, 2018
RE: 19-0299CA; 1 King Street

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: DW-PT Ward: 3C

Owner/Applicant: Lake Champlain Transportation Company

Request: After the fact paving of gravel parking areas. Also, installation of stormwater improvements.

Applicable Regulations:

Article 2 (Administrative Mechanisms), Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Criteria & Guidelines)

Background Information:

The applicant is seeking approval to pave formerly gravel parking areas and for installation of stormwater improvements. Some minor reconfiguration of parking areas and a slight reduction in lot coverage are also included.

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. No comments have yet been received. Any comments received within the 30-day comment period will be incorporated into this permit.

Previous zoning actions for this property:

- 5/23/17, Approval for renovations to restaurant
- 3/7/16, Approval for replacement ticket booth
- 4/27/12, Approval for Lake Monsters Team Headquarters sign
- 6/10/11, Non-app issued for post-flood damage repairs
- 11/30/09, Approval for trussed gable roof
- 2/19/08, Approval for conversion of retail to office space
- 2/17/05, Approval for roof renovations
- 4/13/04, Approval to install ticket window
- 3/27/03, Approval for sur pac and parking lot lighting installation
- 2/21/03, Approval to replace existing restaurant building with larger restaurant building (not acted upon)

- 2/22/01, Approval for Maritime Museum sign
- 2/22/01, Approval to change use to museum
- 8/18/00, Approval to install an interpretative marker
- 5/1/00, Approval to change portion of retail space to creemee stand
- 6/3/99, Approval to amend prior approval for 5 finger docks with marine gas float
- 2/18/99, Approval to install 5 finger docks
- 10/10/95, Approval to install vertical metal siding on maintenance shed
- 10/29/93, Approval for construction of a 20' X 20' storage structure
- 4/9/92, Approval to construct HC accessible bathroom with ramp
- 5/9/91, Approval to construct new structure containing freezer and refrigeration units

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

I. Findings

Article 2: Administrative Mechanisms

Part 7: Enforcement

Sec. 2.7.8, Withhold Permit

A number of zoning permits have been approved for the subject property. Some, but not all, have final certificates of occupancy. Per this section, prior to issuance of a final certificate of occupancy for this project, any zoning permits not yet closed out with final certificates of occupancy must be addressed. **(Affirmative finding as conditioned)**

Article 4: Maps & Districts

Sec. 4.4.1, Downtown Mixed Use Districts:

(a) Purpose

(4) Downtown Waterfront – Public Trust District (DW-PT)

The subject property is located in the Downtown Waterfront – Public Trust (DW-PT) District. This district is intended to enhance and diversify commercial and residential development in the downtown waterfront area, and to increase access, utilization, and enjoyment of the lakeshore by the community. The ferry company is consistent with this intent. **(Affirmative finding)**

(b) Dimensional Standards & Density

Dimensional standards are largely unaffected by this project. Lot coverage will decrease slightly with the introduction of some new green space. Lot coverage will drop to 88.2%. Up to 100% lot coverage is permissible. **(Affirmative finding)**

(c) Permitted & Conditional Uses

See (d) 2 below.

(d) District Specific Regulations

1. Use Restrictions

A. Ground Floor Residential Uses Restricted

(Not applicable)

2. Public Trust Restrictions

The subject property is located within that area of the DW-PT: Maple to Main Street. The ferry company is a permitted use and will remain unchanged. **(Affirmative finding)**

3. Facades and Setbacks on Side and Rear Property Lines
(Not applicable)

4. Building Height Setbacks

A. Principal View Corridors
(Not applicable)

B. Church Street Buildings
(Not applicable)

C. Side Street Building Height
(Not applicable)

5. Lake Champlain Waterfront Setbacks

No changes proposed. **(Not applicable)**

6. Residential District Setback

(Not applicable)

7. Development Bonuses/Additional Allowances

None are sought.

Sec. 4.5.4, Natural Resource Protection Overlay District:

Almost the entire site is located within the Special Flood Hazard Area (at or below the 102' elevation). As a result, the following criteria apply.

(a) District Specific Regulations: Special Flood Hazard Area

(7) Special Review Criteria

A. The danger to life and property...

The pavement work and stormwater improvements have no effect on flood heights or velocities. **(Affirmative finding)**

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

The site work is in little danger of being swept away during times of flooding. **(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...

Given its low elevation adjacent to the lakeshore, the property has been flooded a number of times. The pavement of formerly gravel parking areas and the installation of stormwater measures has no bearing on the susceptibility to flooding. **(Affirmative finding)**

E. The importance of the services provided...

No new use is proposed. The ferry company will remain. As noted above, the ferry company is consistent with the intent of this DW-PT district. **(Affirmative finding)**

F. The availability of alternative locations...

As above, no new use is proposed. The ferry company is logically located along the lakeshore. **(Affirmative finding)**

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

As previously noted, the ferry company is consistent with the intent of the DW-PT zone. **(Affirmative finding)**

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

No new use is proposed. The ferry company use strengthens the working waterfront and contributes to the vitality of the downtown waterfront called for in PlanBTV: Downtown and Waterfront. **(Affirmative finding)**

I. The safety of access to the property...

While almost the entire property is within the Special Flood Hazard Area, access to it remains possible from King Street during flood events. No changes in access are proposed. **(Affirmative finding)**

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

The maximum regulatory flood elevation along the lakeshore is 102' above sea level. The velocity of flood waters along the lakeshore is not problematic. Water is more or less stationary as it rises and falls. The duration of flooding and the rate of its rise depend entirely on spring snowmelt and precipitation events. The lake has risen above 102' just once on record (spring 2011). Sediment transport is insubstantial. Sediment transport is associated with moving waterways such as rivers. The parking area pavement has 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

See Article 4 above.

Sec. 5.2.4, Buildable Area Calculation

Not applicable in the DW-PT zone.

Sec. 5.2.5, Setbacks

See Article 4 above.

Sec. 5.2.6, Building Height Limits

See Article 4 above.

Sec. 5.2.7, Density and Intensity of Development Calculations

See Article 4 above.

Sec. 5.5.1, Nuisance Regulations

Nothing in the proposal appears to constitute a nuisance under this criterion. (**Affirmative finding**)

Sec. 5.5.2, Outdoor Lighting

No new outdoor lighting is proposed. (**Not applicable**)

Sec. 5.5.3, Stormwater and Erosion Control

The applicant has worked with the city's stormwater program to improve conditions on this heavily developed lakeshore site. Proposed measures include several underground stormwater attenuation chambers that will collect and treat stormwater runoff from the site prior to discharge into Lake Champlain. Final approval of the post-construction stormwater management system is pending. The erosion control plan has been approved. (**Affirmative finding as conditioned**)

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

Site changes are mostly limited to pavement of formerly gravel parking areas. There are some small alterations such as the introduction of some additional lakeshore green space within the northern pier area and some reconfigured parking space striping. (**Affirmative finding**)

Part 3, Architectural Design Standards

(**Not applicable**)

II. Conditions of Approval

1. Final approval of the post-construction stormwater management plan by city stormwater program staff is required.
2. **Prior to issuance of a certificate of occupancy for this zoning permit**, all prior zoning permits that have expired without their required certificates of occupancy shall be closed out with final certificates of occupancy. The applicant is advised to seek certificates of occupancy for these older zoning permit prior to seeking a certificate of occupancy for this new zoning permit.
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.