

Department of Planning and Zoning

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TO: Development Review Board
FROM: Ryan Morrison
DATE: December 4, 2018
RE: 19-0416CA; 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/5S

Owner/Applicant: Lake Champlain Transportation Company

Request: Relocation of the existing loading ramps.

Applicable Regulations:

Article 2 (Administrative Mechanisms), Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Criteria & Guidelines), Article 8 (Parking)

Background Information:

The applicant is seeking approval to relocate the existing ferry loading ramps from their current location to a new location.

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:

- 11/7/18, Approval for after the fact paving of gravel areas
- 10/5/17, Approval for replacement fuel tank and islands for dispensers
- 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
- 5/27/03, 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 remain the same as existing (88.2% according to ZP19-0299CA). 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. Permitted Uses: North-of Main Street

(Not applicable)

B. Permitted Uses: Maple to Main Street

Only the following uses are permitted within that portion of the Downtown Waterfront – Public Trust District located north of the centerline of Maple Street extended north to the centerline of Main Street extended:

(i) Facilities for transporting pedestrians and vehicles upon Lake Champlain by ferry and cruise vessels, including necessary docks, wharfs, maintenance facilities, administrative offices, gift shops, snack bars and related parking facilities...

The ferry company is a permitted use within the Maple to Main Street section of the DW-PT zoning district. **(Affirmative finding)**

C. Other Regulations in Effect
(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. Lake Champlain Waterfront Setbacks

A. Additions to Existing Structures
(Not applicable)

B. Averaging of Setbacks
(Not applicable)

C. Permitted Encroachments

The DRB may approve one or more of the following within the required waterfront setback: structures such as walkways, planters, benches, fountains, public art, sitting walls and other improvements which will enhance the pedestrian environment and enjoyment of the waterfront; and public marinas, public recreational piers, ferry docks, lake excursion facilities, and open-air markets, provided pedestrian circulation is not unreasonably impaired.

The proposal is to relocate the existing ferry loading ramps to an area within the property that is not used for pedestrian areas. The loading ramps will extend slightly over the water, beyond the western terminus of the wharf. This wharf has historically been used for boat docking. **(Affirmative finding)**

5. Development Bonuses/Additional Allowances
(Not applicable)

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.

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

A. The danger to life and property...

The relocation of the ferry loading ramps 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 newly relocated loading ramps will have no bearing on the susceptibility to flooding. The loading ramps must be, however, anchored to prevent flotation, collapse, or lateral movement. (Affirmative finding as conditioned)

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. The relocated loading ramps will be at the same elevation as the existing ramps. (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 accessible 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 loading ramps 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, 6, and 8 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

Not applicable. The applicant states that there will be no need for new lighting fixtures as the boats will only operate during daylight hours.

Sec. 5.5.3, Stormwater and Erosion Control

The applicant has submitted an Erosion Prevention and Sediment Control (EPSC) Plan to the City's Stormwater Program Manager. Prior to the release of the zoning permit, the plan must be 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

a) Protection of Important Natural Features

The subject property is located along the Lake Champlain shoreline. The shoreline is identified as a significant natural area. Almost the entire site is affected by the Natural Resource Protection Overlay District, specifically the special flood hazard area. As required, an EPSC plan was submitted and is currently under review by the Stormwater Program Manager. As noted above, the EPSC plan must conform to stormwater program requirements and be approved by the Program Manager before this zoning permit can be released.

The proposal includes installation of 12 monopile fender dolphins in the waters of Lake Champlain. Because these are within state waters, the applicant will be tasked with obtaining all necessary state permits from the Agency of Natural Resources and possibly the U.S. Army Corps of Engineers. **(Affirmative finding as conditioned)**

- b) *Topographical Alterations*
Not applicable.
- 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)**

Article 8: Parking

With the re-routing of ferry traffic to the new loading ramps, the site will see the loss of approximately 82 parking spaces (according to the most recently approved site plan). The applicant notes that there are 225 spaces currently on the property, and based on the parking requirements of Table 8.1.1-1 – Minimum Off-Street Parking Requirements, only 44 spaces are required onsite. The applicant has provided a list of the existing uses on the property, and the gross floor areas to calculate the parking requirement. Uses include a restaurant, office space, storage/warehousing, workshops, and a small amount of retail. Outside the ferry traffic queuing areas, there will be 174 parking spaces onsite. **(Affirmative finding)**

II. Conditions of Approval

1. **Prior to the release of the zoning permit**, the EPSC plan must be reviewed and approved by the Stormwater Program Manager.
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 loading ramps 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.
4. 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;

5. The Applicant/Property Owner is responsible for obtaining all necessary state and federal permits.
6. 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.
7. Standard permit conditions 1-15.