

Department of Planning and Zoning

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TO: Development Review Board
FROM: Scott Gustin
DATE: September 6, 2016
RE: 10-1005CA/MA; 475 Lake Street
10-1115CA; 0 Lake Street
11-0570CU; 601 Lake 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: DT-PT & UR Ward: 3 & 7

Owner/Applicant: City of Burlington

Request: Time extension for redevelopment of the Moran Plant (5 permits including amendments and associated properties) into public-private uses and associated site works and car parking and area for temporary construction staging.

Applicable Regulations:

Article 3 (Applications, Permits, & Project Review)

Background Information:

The applicant is seeking approval for a third 1-year time extension for redevelopment of the Moran Plant and associated site and infrastructure improvements and the Community Sailing Center. The requested time extension also pertains to the related construction staging area in the Urban Reserve. No project changes are included in this extension request.

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

I. Findings

Article 3: Applications and Reviews

Sec. 3.2.9, Zoning Permits

(d) Time Limit on Zoning Permits:

This project involves 5 zoning permits: 2 for the original project approval (10-1005CA/MA & 10-1115CA; 475 & 0 Lake Street, respectively), 2 amendments to the original project approval (same permit numbers), and 1 for the temporary construction staging in the Urban Reserve (11-0570CU; 601 Lake Street). The project was originally approved August 17, 2010. The amendments were approved September 19, 2011. The construction staging permit was approved March 3, 2011. As noted in criterion (f) below, commencement of construction was delayed due to mandatory federal permit requirements and Act 250 related litigation. As a result of the federal permit requirements

and Act 250 related litigation, the effective date of the zoning permits was not until September 17, 2012 (the end of Act 250 related litigation). Construction activity commenced on September 13, 2013 with some onsite demolition, stormwater work, and brownfield activities. Since then, construction has continued through to the present; however, it is not yet complete.

A 1-year time extension was sought and obtained August 22, 2014. A second extension was sought and obtained August 25, 2015. That second extension pushed the permit expiration date to September 17, 2016. Construction yet to be completed, including the sailing center, will not be done by September 17, 2016, hence the third permit extension request. Insofar as construction activity commenced within 1 year of the effective date of the zoning permits, and the extension request has been filed prior to expiration of the extended permit, the requested 1 year extension may be approved. Development Review Board precedent allows for up to 3 permit extensions (i.e. such as Stratos and 53 Birchcliff Parkway). Construction must be complete by September 17, 2017. This extension is the third and final extension. **(Affirmative finding as conditioned)**

(f) Exceptions to Permit Time Limits

This criterion tolls the start time for zoning permits subject to other state or federal permitting jurisdiction and/or appeals. Specifically, it states: "For projects subject to additional state or federal permitting jurisdiction, the date of decision [i.e. the effective date] shall be deemed to be the latest date of decision of the state or federal permitting authority. For projects under appeal pursuant to the requirements of Article 12, the date of decision shall be deemed to be the date of the decision adjudicating such appeal." This project required a U.S. Army Corps of Engineers permit and was also the subject of litigation relative to Act 250 jurisdiction. The Army Corps permit was issued December 8, 2011 and litigation relative to Act 250 concluded September 17, 2012 (Act 250 jurisdiction was found not to apply). With the conclusion of litigation on September 17, 2012, the 1 year start time for the zoning permits began. **(Affirmative finding)**

II. Conditions of Approval

1. Except as specifically modified in this approval, all conditions of the original zoning permits (10-1005CA/MA, 10-1115CA, & 11-0570CU) and as amended shall remain in effect.
2. This extension is the third and final extension.
3. Standard permit conditions 1 -15 (including construction completion date no later than September 17, 2017).



COMMUNITY & ECONOMIC DEVELOPMENT OFFICE

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MEMORANDUM

RECEIVED
AUG 05 2016

To: Burlington Planning & Zoning Development Review Board

From: Kirsten Merriman Shapiro, Senior Projects and Policy Specialist, CEDO *Kms*

DEPARTMENT OF
PLANNING & ZONING

CC: Scott Gustin, AICP, CFM, Senior Planner, Dept. of Planning & Zoning

Date: August 5, 2016

Re: Moran Center - 10-1005CA/MA & 11-0570 CU & CA 10-1115 CA

This memo is a request for a one year extension on the following permits 10-1005CA/MA & 11-0570 CU. The project is currently under construction, but will not be finished by September 17, 2016.

I can attend your September 6, 2016 meeting to answer any questions you may have.

Thank you for your consideration.

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