

Department of Permitting & Inspections

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TO: Development Review Board
FROM: Scott Gustin
DATE: October 15, 2019
RE: 20-0317CU; 702 Lake Street

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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: UR Ward: 3C

Owner/Applicant: City of Burlington / Dept. of Public Works

Request: Renewal of winter snow storage on urban reserve parcel

Applicable Regulations:

Article 3 (Applications, Permits, and Project Reviews), Article 4 (Maps & Districts), Article 5 (Citywide General Regulations)

Background Information:

The applicant is seeking renewed approval to use a portion of the urban reserve to store snow removed from city streets and the Church Street Marketplace during winter months. No construction is included in this proposal. This activity was originally permitted January 19, 2010 and has been re-approved several times since then. The most recent zoning permit approval was November 15, 2016. Conditions of that approval are noted below:

1. Every spring, after snow in the storage facility has melted, all debris, sand, trash and the like shall be removed from the site, and the site shall be returned to its original condition.
2. All truck drivers dumping snow on the site shall be instructed by the Department of Public Works and/or the Church Street Marketplace to drive slowly at the site and to not slam their trucks' tailgates.
3. The Department of Public Works is responsible for compliance with these permit conditions, including noise and use of the facility by the Church Street Marketplace.
4. The Department of Public Works shall encourage the Church Street Marketplace to use the site only between the hours of 7:00 AM – 10:00 PM.
5. **This permit approval is valid for 1 year only.** Continued use of the site for snow storage beyond 1 year will require a new zoning permit per Sec. 4.4.7 (d), *District Specific Regulations*, of the Comprehensive Development Ordinance.
6. Standard conditions 1-15.

More than a year has passed since this prior approval. Lack of a new application before now appears to have been an oversight by the parties involved. This new permit application is for

another standard 2 year approval of the same activity with no changes. These findings include information from prior applications as well as the present application.

The Conservation Board reviewed this latest permit application October 7, 2019. The Board unanimously recommended approval of the snow storage activity for another 2 years with a condition that the site be monitored to prevent surface flow discharge of meltwater from the site.

There are no previous zoning permit actions for this site except for the previous snow storage permits noted above.

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

I. Findings

Article 3: Applications and Reviews

Part 5, Conditional Use & Major Impact Review:

Sec. 3.5.6 (a) Conditional Use Review Standards

Approval shall be granted only if the DRB, after public notice and public hearing, determines that the proposed conditional use and associated development shall not result in an undue adverse effect on each of the following general standards:

1. *Existing or planned public utilities, facilities or services are capable of supporting the proposed use in addition to the existing uses in the area;*

The seasonal storage of snow from city streets on this site will have no impact on existing or planned community facilities. It will assist Public Works crews in keeping city streets clear during large snow storms and will provide the Church Street Marketplace a place to store snow removed from the Marketplace. **(Affirmative finding)**

2. *The character of the area affected as defined by the purpose or purposes of the zoning district(s) within which the project is located, and specifically stated policies and standards of the municipal development plan;*

The site is bordered to the east by railroad tracks and to the west by the bike path. The surrounding land is vacant former industrial land. No site alterations or structures are proposed for this seasonal use. The snow storage use is consistent with the character of the area. **(Affirmative finding)**

3. *The proposed use will not have nuisance impacts from noise, odor, dust, heat, and vibrations greater than typically generated by other permitted uses in the same zoning district;*

The snow storage use will generate no glare other than that from truck headlights. Noise from the dump trucks unloading snow can be substantial if done carelessly. Done carefully so as to avoid slamming truck tailgates, noise levels can be substantially reduced. See Sec. 3.5.6 (c) 1 below for mitigation measures. **(Affirmative finding)**

4. *The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street designations and capacity; level of service and other performance measures; access to arterial roadways; connectivity; transit*

availability; parking and access; impacts on pedestrian, bicycle and transit circulation; safety for all modes; and adequate transportation demand management strategies;

Traffic associated with the seasonal snow storage use depends on the frequency and amount of snowfall. While the Church Street Marketplace clears snow from nearly every snow event, the Department of Public Works stores snow on the site only in the event of large snow storms, typically 4-6 times per winter.

The traffic activity that has the greatest impact on adjacent neighborhoods generally occurs between 3:00 AM and 7:00 AM. In general, traffic impacts, with the exception of truck noise, are modest. **(Affirmative finding)**

and,

5. *The utilization of renewable energy resources;*

No information has been provided with respect to the use of alternative energies. As no site changes or structures are proposed, the proposed use will not unreasonably deter the actual or potential use of renewable energies by the subject or neighboring properties. **(Affirmative finding)**

and,

6. *Any standards or factors set forth in existing City bylaws and city and state ordinances;*

As conditioned, the snow storage use complies with all applicable zoning bylaws. **(Affirmative finding)**

(b) Major Impact Review Standards

Not applicable.

(c) Conditions of Approval:

In addition to imposing conditions of approval necessary to satisfy the General Standards specified in (a) or (b) above, the DRB may also impose additional conditions of approval relative to any of the following:

1. *Mitigation measures, including but not limited to screening, landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.*

The snow storage use will generate no glare other than that from truck headlights. Noise from the dump trucks unloading snow can be substantial. Although this may have an impact on residential properties in the vicinity of the snow dump, this relatively convenient location close to the areas where snow is being removed means that trucks will not have to make longer early morning trips through more dense residential areas. Applications for this snow storage have consistently noted that truck drivers are instructed to pull away slowly and to avoid slamming their tailgates. This method of dumping snow limits potential noise impacts associated with the activity. Contradictory testimony was provided to the Development Review Board while considering prior snow storage applications. Assertions were made that trucks frequently slam their tailgates and that not all truck drivers are instructed to avoid such slamming. Approval of this application will require that all workers (DPW employees and the Marketplace contractor) dumping the snow be instructed to not slam their tailgates and to drive slowly. As noted above, noise generated during the overnight hours can be especially problematic for nearby residences. During review of the 2016 application, the applicant represented that the Church Street Marketplace's use of the snow storage site can be

at any time. In an effort to further reduce noise impacts, the Board encouraged the applicant to work with the Marketplace to attempt to schedule its use of the site between the hours of 8:00 AM – 10:00 PM. **(Affirmative finding as conditioned)**

2. Time limits for construction.

No construction is included. **(Not applicable)**

3. Hours of operation and/or construction to reduce the impacts on surrounding properties.

As noted previously, the facility is used seasonally. Early morning snow dumping activities are generally limited to the period between 3:00 AM and 7:00 AM. Information provided states that Public Works' operations at the snow storage facility take place approximately 4-6 times per winter, sometimes several days at a time. The Church Street Marketplace may use the site for storage of nearly every snowfall. As noted above, noise impacts can be reduced by dumping snow slowly and not slamming the tailgates. **(Affirmative finding as conditioned)**

4. That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions; and,

Any future enlargement or alterations of the snow storage facility will require additional permit review in accordance with the regulations in effect at that time. **(Affirmative finding)**

5. Such additional reasonable performance standards, conditions and safeguards, as it may deem necessary to implement the purposes of this chapter and the zoning regulations.

As conditioned, the proposed snow storage facility complies with the applicable requirements of the Comprehensive Development Ordinance. **(Affirmative finding)**

Article 4: Maps & Districts

Sec. 4.4.7, Urban Reserve District:

(a) Purpose

The snow storage use is seasonal in nature and involves no site alterations or structures. It is identified as one of several uses that may be allowed in the urban reserve. **(Affirmative finding)**

(b) Dimensional Standards & Density

The snow storage use involves no structures, lot coverage, or residential units. **(Affirmative finding)**

(c) Permitted & Conditional Uses

Seasonal snow storage by the city is a conditional use in the urban reserve and is reviewed under the applicable criteria of these findings. **(Affirmative finding)**

(d) District Specific Regulations

1. Any and all improvements in this district shall be consistent with any and all development and use restrictions and easements as may otherwise be applicable to the property.

As part of the original zoning permit for this snow storage activity, the City Attorney's Office submitted a memo indicating that the snow storage activity is consistent with applicable regulations. No changes to the snow storage operation are proposed in this new application. **(Affirmative finding)**

2. Any authorization granted by the DRB shall include a prescribed duration for the activity after which such authority and all related permits shall expire. The DRB may consider an extension of this time period if such a request has been made prior to expiration. No permit should remain in effect for more than 2 years without reapplication and review pursuant to this section.

The original zoning permit approval was valid for 2 years. The most recent approval was for just 1 year in order to give the DRB the opportunity to assess the noise mitigation efforts. An additional 2 years are sought with this application. **(Affirmative finding as conditioned)**

3. As a condition of any approval by the DRB for projects involving temporary construction staging or seasonal snow storage, the site shall be restored to its prior condition once the temporary activity has been completed for which the DRB may require a bond or other necessary surety in a form satisfactory to the city attorney.

In the spring, after the snow has melted, the site must be cleaned of any trash or debris that was contained in the snow. No financial surety is required. **(Affirmative finding as conditioned)**

Article 5: Citywide General Regulations

Sec. 5.2.3, Lot Coverage Requirements

(Not applicable)

Sec. 5.2.4, Buildable Area Calculation

(Not applicable)

Sec. 5.2.5, Setbacks

(Not applicable)

Sec. 5.2.6, Building Height Limits

(Not applicable)

Sec. 5.2.7, Density and Intensity of Development Calculations

(Not applicable)

Sec. 5.5.1, Nuisance Regulations

Nothing in the proposal appears to constitute a nuisance under this criterion. See Sec. 3.5.6 (c) 1 above relative to noise mitigation. **(Affirmative finding)**

Sec. 5.5.2, Outdoor Lighting

(Not applicable)

Sec. 5.5.3, Stormwater and Erosion Control

The Conservation Board reviewed this latest application and specifically addressed potential water quality impacts from the melting snow and its proximity to Lake Champlain. The site is contained within an existing berm, and melt water typically infiltrates into the ground or evaporates. The Board unanimously recommended approval for another 2 years with a condition that the site be monitored to prevent surface flow discharge of meltwater from the site. **(Affirmative finding as conditioned)**

II. Conditions of Approval

1. Every spring, after snow in the storage facility has melted, all debris, sand, trash and the like shall be removed from the site, and the site shall be returned to its original condition.
2. The snow storage site shall be monitored by the applicant to prevent surface flow discharge of meltwater from the site.
3. All truck drivers dumping snow on the site shall be instructed by the Department of Public Works and/or the Church Street Marketplace to drive slowly at the site and to not slam their trucks' tailgates.
4. The Department of Public Works is responsible for compliance with these permit conditions, including noise and use of the facility by the Church Street Marketplace.
5. The Department of Public Works shall encourage the Church Street Marketplace to use the site only between the hours of 7:00 AM – 10:00 PM.
6. **This permit approval is valid for 2 years only.** Continued use of the site for snow storage beyond 2 years will require a new zoning permit per Sec. 4.4.7 (d), *District Specific Regulations*, of the Comprehensive Development Ordinance.
7. Standard conditions 1-15.