

Department of Permitting & Inspections

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TO: Development Review Board
FROM: Scott Gustin
DATE: May 4, 2021
RE: 21-0870CA; 8 College Street
21-0874CA; 0 Flynn Avenue

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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: DW-PT, RCO-RG Ward: 3C, 5S

Owner/Applicant: City of Burlington / Dept. of Parks, Recreation, & Waterfront

Request: Bike path / greenway reconstruction and realignment between College and Maple Streets and through Oakledge Park.

Applicable Regulations:

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 reconstruct the bike path between College Street and Maple Street. The path will be relocated to the west of the railroad tracks. This work is associated with (but separate from) the railroad work to accommodate passenger rail. Further south, the bike path is to be reconstructed through Oakledge Park between Austin Drive and Flynn Avenue. New bike racks, pause places, and improved access to Blanchard Beach are included in this work.

The proposed work includes tree removal and new tree plantings as well as other landscaping and hardscaping improvements. Wayfinding signage is included in the plans but is subject to separate zoning permit review.

The work to improve access to Blanchard Beach extends into the special flood hazard area (SFHA) along Lake Champlain. Project plans have been forwarded to the Vermont River Corridor & River Protection Program for comment. No comments have yet been received. Timely comments will be incorporated into this permit.

The proposed work traverses multiple properties and includes two applications. It is reviewed collectively as one project. As municipal property, the project is subject only to limited zoning review per VSA 24, Sec. 4413, *Limitations on Municipal Bylaws*, (a). Review may address location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended function or use.

The Conservation Board reviewed this project May 3, 2021. Any comments or recommendation will be provided to the Development Review Board.

Recommendation: Certificate of appropriateness approval as per, and subject to, the following findings and conditions.

I. Findings

Article 4: Zoning Maps & Districts

Sec. 4.4.1, Downtown Mixed Use Districts:

(a) Purpose

(2) Downtown Waterfront – Public Trust District

This district is intended, in part, to increase access, utilization, and enjoyment of the lakeshore by the community. The bike path does exactly this and is consistent with the intent of this district.

(Affirmative finding)

(b) Dimensional Standards & Density

No setback requirements apply to this project, nor is there any lot coverage limit. With no new buildings, FAR remains unchanged, and height limits are not applicable. **(Affirmative finding)**

(c) Permitted & Conditional Uses

See criterion (d) below.

(d) District Specific Regulations

The bike path is a public amenity consistent with the intent of the DW-PT zone, and no change in use is proposed. **(Affirmative finding)**

Sec. 4.4.6, Recreation, Conservation, and Open Space Districts:

(a) Purpose

(2) RCO-Recreation/Greenspace (RCO-RG)

The portion of work through Oakledge Park is located in the RCO-RG zone. This zone is intended primarily to provide a diversity of passive and active recreational opportunities. The proposed bike path work will contribute to future enjoyment of the path and enhanced access to Blanchard Beach. **(Affirmative finding)**

(b) Dimensional Standards & Density

No new buildings are included. In addition to the path reconstruction, several new bike parking areas are proposed, as is a pause place by Blanchard Beach. Density remains unchanged, and setbacks do not apply (paths may extend into setbacks). Lot coverage will be affected; however the degree of change is not clear. Up to 15% lot coverage is permissible in Oakledge Park.

Proposed lot coverage information is needed to confirm continued compliance. **(Affirmative finding as conditioned)**

(c) Permitted & Conditional Uses

The outdoor recreational use is permitted in the RCO-RG zone and will not change. **(Affirmative finding)**

(d) District Specific Regulations
(Not applicable)

Sec. 4.5.4, Natural Resource Protection Overlay District:

(c) District Specific Regulations: Riparian and Littoral Conservation Zone

The new pause place and access to Blanchard Beach will sit within the Riparian and Littoral Conservation Zone (250' width from the 100' lakeshore elevation). This overlay zone limits the clearing of trees over 6" caliper and new stormwater outfalls. The plans show just one tree to be removed and several others to be protected and retained due to the new beach access. No new stormwater outfalls are proposed. As noted above, the Conservation Board will review this proposal May 3, 2021. **(Affirmative finding)**

(f) District Specific Regulations: Special Flood Hazard Area

Sections of the proposed work extend into the SFHA. The following criteria apply.

(7) Special Review Criteria

A. The danger to life and property...

A small portion of the proposed Blanchard Beach access will extend below the 102' lakeshore flood elevation. The work is minimal, and it will create no increase in flood heights or velocities. **(Affirmative finding)**

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

The proposed concrete and stone beach access 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...

As noted above, the proposed work is small in scale and is constructed of materials resistant to flood damage. The proposed beach access is far less susceptible to flooding damage than buildings would be. **(Affirmative finding)**

E. The importance of the services provided...

Like the bike path, Blanchard Beach is a community amenity. The proposed pause place and beach access will improve the connection between these amenities. **(Affirmative finding)**

F. The availability of alternative locations...

The location of the bike path will remain essentially unchanged. Logically, the proposed beach access will enter low elevation territory, in this case, within the flood zone. **(Affirmative finding)**

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

The proposed work will improve access to a community amenity and is consistent with the intent of the RCO-RG zone. **(Affirmative finding)**

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

No new use is proposed. Parkland remains parkland. As noted in criterion G above, the proposed beach access is consistent with the express intent of the RCO-RG zone. **(Affirmative finding)**

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

The proposed beach access will have no adverse effect on access to Oakledge Park in times of flooding. **(Affirmative finding)**

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

The proposed beach access will have no impact on lakeshore flood height, velocity, duration, rate of rise, or sediment transport. The degree of encroachment into the SFHA is minimal. **(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)

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. 5.5.3, Stormwater and Erosion Control

The proposed work requires an erosion prevention and sediment control (EPSC) plan for implementation during construction. EPSC details have been provided. Final approval from the city's stormwater program is pending. **(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

This application pertains largely to site work for the reconstructed bike path and related work. No new buildings are included. The project plans include provision for related improvements including new landscaping, bike racks, and a new pause place and related access to Blanchard Beach. Details provided address tree removal and replacement along with other additional landscaping running alongside portions of the reconstructed path. The proposed features serve to enhance this heavily used community resource.

The section of work between Maple and King Streets includes an extension of the LCTC parking lot onto city property (Perkins Pier). Related landscaping is included. This work will require a separate zoning permit for the LCTC property, although most of the work is on city property. **(Affirmative finding as conditioned)**

Part 3, Architectural Design Standards

Sec. 6.3.2, Review Standards

(Not applicable)

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements

The proposed parking lot work is located within the Multimodal Mixed-Use parking district. No minimum onsite parking requirement apply. The expansion of the LCTC parking lot onto Perkins Pier appears to have little, if any, impact on the number of parking spaces on each property. Clarification is needed. **(Affirmative finding as conditioned)**

Sec. 8.1.9, Maximum On-Site Parking Spaces

Although no onsite parking minimum requirements apply, this criterion establishes an upper limit to onsite parking spaces. Existing and proposed parking numbers for each property are needed in order to determine compliance. The new LCTC parking spaces on Perkins Pier are off-site spaces as to that use and count towards the maximum permissible on the Perkins Pier property. **(No finding possible)**

II. Conditions of Approval

If onsite parking is compliant per the maximum onsite parking standards, the following conditions of approval are recommended.

1. **Prior to release of the zoning permit**, the following items must be provided, subject to staff review and approval:
 - a. Existing and proposed lot coverage (percent and square feet) for Oakledge Park;
 - b. Separate zoning application for the LCTC property (for the parking lot work); and,
 - c. Existing and proposed parking space totals for the LCTC property and for Perkins Pier.
2. **Prior to release of the zoning permit**, the erosion prevention and sediment control plan shall be reviewed and approved by the Stormwater Administrator.
3. Per Sec. 4.5.4, (f) 8, construction within the Special Flood Hazard Area (i.e. the new beach access) is subject to the following conditions:
 - C. All development:
 - (i) New construction and/or substantial improvements to structures shall be reasonably safe from flooding and be:
 1. Designed and adequately anchored to prevent flotation, collapse, or lateral movement during the occurrence of the base flood;
 2. Constructed of materials resistant to flood damage;
 3. Constructed by methods and practices that minimize flood damage; and
 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;

- (ii) All development shall be designed to minimize flood damage to the proposed development and to public facilities and utilities;
 - (iii) All development shall be designed to provide adequate surface drainage to reduce exposure to flood hazards;
 - (iv) All new construction and substantial improvements that have fully enclosed areas below the lowest floor shall:
 - 1. Not applicable;
 - (v) All necessary permits shall be obtained from those governmental agencies from which approval is required by federal or state law.
- D. Residential Development:
 - (i) Not applicable.
- E. Non-Residential Development:
 - (i) All new construction and substantial improvements for nonresidential purposes shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation. Existing non-residential structures may be flood proofed where designed to be watertight to one foot or more above the base flood elevation, with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a proposed building to be flood proofed shall not be issued until a registered architect or engineer has reviewed the structural design, specifications and plans and has certified that the design and methods of construction are in accordance with meeting the provisions of this subsection.
- F. Water Supply Systems:
Not applicable;
- G. On-Site Waste Disposal Systems:
Not applicable;
- H. Recreational Vehicles:
 - (i) Not applicable.
4. Standard conditions 1-15.