

## Department of Permitting & Inspections

Zoning Division  
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**TO:** Development Review Board  
**FROM:** Scott Gustin  
**DATE:** January 5, 2021  
**RE:** 21-0499SP; 2-14 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:** Sketch plan review to demolish warehouse and construct restaurant with associated site alterations.

### **Applicable Regulations:**

Article 3 (Applications, Permits, and Project Reviews), Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Review Standards), Article 8 (Parking)

### **Background Information:**

The applicant is requesting sketch plan review of a proposal to demolish an existing warehouse associated with the ferry company and to replace it with a new restaurant building and related site improvements. An existing "auto shop" building and smaller shed will also be removed as part of the site redevelopment.

The property sits within the Special Flood Hazard Area. This location triggers review under the SFHA criteria of Sec. 4.5.4. Upon application, project plans will be provided to the state floodplain coordinator for review and comment. Significant fill is included in this proposal to elevate the new building and reconstructed parking area above the 102' flood elevation.

Previous zoning actions for this property:

- 10/6/20, Approval for a new building and deck to replace prior structure
- 5/19/20, Approval for the construction of a shed to house a commercial ice machine.
- 8/6/19, Approval for site modifications to accommodate vehicular and pedestrian flow for the ferry basin.
- 12/4/18, Approval to relocate 2 loading ramps.
- 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

## **I. Findings**

### **Article 3: Applications and Reviews**

#### ***Part 3, Impact Fees:***

#### **Section 3.3.2, Applicability**

The new restaurant will require payment of impact fees. Credit will be provided for the demolished warehouse and other buildings the new structure will replace.

### **Article 4: Maps & Districts**

#### ***Sec. 4.4.1, Downtown Mixed Use Districts:***

#### ***(a) Purpose***

#### ***(2) Downtown Waterfront – Public Trust District (DW-PT)***

The subject property is located in the Downtown Waterfront – Public Trust District. This zone is intended to enhance and diversify commercial and residential development in the downtown waterfront area with an emphasis on enhanced community access to the lakeshore. This project will introduce a new publicly accessible use to the downtown waterfront and will provide for public access to the lakefront. The project appropriately relates to the intent of this district.

#### ***(b) Dimensional Standards & Density***

No FAR information is included in the sketch plans and will need to be included in the permit application. Building height is 25' and is below the 35' limit. No minimum setbacks apply except for a 50' lakeshore setback addressed in subsection d (4) below. While there is no lot coverage limit in this zone, lot coverage will be reduced with the introduction of new green space.

#### ***(c) Permitted & Conditional Uses***

See Sec. 4.4.1 (d) 1, *Public Trust Restrictions, B, Permitted Uses: Maple to Main Street*

#### ***(d) District Specific Regulations***

### ***1. Use Restrictions***

#### ***B. Permitted Uses: Maple to Main Street***

Restaurants are a permitted use in this section of the downtown waterfront.

#### ***(c) Other Regulations in Effect***

All other applicable zoning standards apply as reflected in these findings.

### ***3. Facades and Setbacks on Side and Rear Property Lines***

Not applicable.

### ***4. Lake Champlain Waterfront Setbacks***

The property sits within the lakeshore portion of the downtown waterfront district. A 50' waterfront setback applies, but provision is made for certain types of encroachments. The 50' waterfront setback stems from the status of the filled waterfront lands as public trust lands. The setback is intended to provide open and continuous public access to the water's edge.

The existing warehouse sits within the 50' setback to the north. The degree of encroachment will be lessened by the proposed restaurant building, but it too will encroach. As the degree of nonconformity will lessen, the proposed building encroachment is acceptable.

Proposed site features to the west and south, including patio seating, planters, and parking will encroach into the 50' setback. Subsection C allows for encroachments such as walkways, planters, and benches so long as pedestrian circulation is not unreasonably impaired. The proposed parking spaces at the southeastern end of the restaurant may need to be relocated, as they may significantly impair pedestrian circulation (they do not appear in the renderings, but do appear in the site plan). Much of the proposed outdoor patio seating area is effectively walled off with planters and may inhibit pedestrian circulation for the general public. A more open layout with greater freedom of pedestrian circulation is encouraged to comply with the intent of the 50' waterfront setback.

### ***5. Development Bonuses/Additional Allowances***

Not applicable.

#### ***Sec. 4.5.4, Natural Resource Protection Overlay District:***

The property 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 finished grade under the restaurant will be elevated with fill to 104' above sea level. This increase in the finished grade will place the proposed restaurant above the 102' base flood elevation. Within the lakeshore flood zone, fill does not affect flood heights or velocities.

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

As noted above, the finished grade will be increased above the base flood elevation. In doing so, there is limited danger of flood waters reaching the new building and sweeping materials away.

###### **C. The proposed water supply and sanitation systems...**

The water and sewer lines must be constructed to withstand inundation and soil saturation in times of flooding.

**D. The susceptibility of the proposed facility and its contents to flood damage...**

Elevating the proposed structure and related parking above the base flood elevation substantially limits the potential for flood damage.

**E. The importance of the services provided...**

The proposed restaurant will bring about improved public access to the downtown waterfront and will afford opportunity for a new dining experience near the water's edge where none presently exists.

**F. The availability of alternative locations...**

There are plenty of locations within the city that could host a restaurant. There are few locations; however, along the waterfront that could do so. As noted above, the finished grade will be elevated above the base flood elevation. In doing so, the potential for flooding of the new restaurant will be substantially limited.

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

The restaurant will be located on ferry company property. It will complement the ferry transit operations nicely by providing a place for riders to dine before or after crossing the lake. It could also provide a place for anyone to simply watch the ferries traverse the lake or otherwise experience the downtown waterfront.

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

The ferry company contributes to the working waterfront and enhances the vitality of the downtown waterfront called for in PlanBTV: Downtown and Waterfront. The proposed restaurant will enhance the ferry company property.

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

Elevation of the finished grade for both the restaurant and the reconstructed parking and circulation areas will improve access to the property during times of flooding.

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

The maximum regulatory flood elevation along the lakeshore is 102' above sea level. The addition of fill to raise the finished grade above the base flood elevation will have no perceptible impact on lakeshore flood dynamics or sediment transport.

**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 Sec. 4.4.1 (b).

***Sec. 5.2.4, Buildable Area Calculation***

See Sec. 4.4.1 (b).

***Sec. 5.2.5, Setbacks***

See Sec. 4.4.1 (b).

***Sec. 5.2.6, Building Height Limits***

See Sec. 4.4.1 (b).

***Sec. 5.2.7, Density and Intensity of Development Calculations***

See Sec. 4.4.1 (b).

***Sec. 5.5.1, Nuisance Regulations***

Nothing in the proposal appears to constitute a nuisance under this criterion. While the proposed restaurant will likely provide a substantial public draw that does not exist now, its location far from residences will limit noise impacts that may be related to outdoor dining and increased traffic generation.

***Sec. 5.5.2, Outdoor Lighting***

Very limited outdoor lighting information is included in the sketch plans. The permit application must include a photometric plan of the site delineating separate lighting environments (parking & circulation, walkways, and building entries) and fixture cutsheets.

***Sec. 5.5.3, Stormwater and Erosion Control***

The sketch plans depict some new stormwater management measures. Details as to system components and performance will be required with the permit application. The project is sufficiently large to require an erosion prevention and sediment control plan upon application as well.

**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 site contains no significant natural areas as identified in the Open Space Protection Plan. While the site is along the Lake Champlain waterfront, it (and the rest of the downtown waterfront) is not included in the Riparian and Littoral Conservation Zone.

***(b) Topographical alterations***

As noted previously, the finished elevation will be raised to between 103' and 104' above sea level – above the 102' base flood elevation. That said, the site is basically flat and will remain so.

***(c) Protection of important public views***

There are significant public views from the project site across the lake and towards the Adirondacks. The replacement of the existing warehouse with a new restaurant will not adversely impact these views. With the conversion to a restaurant, the site will afford improved public access to these important public views.

***(d) Protection of important cultural resources***

The project site is located on fill soils. The site has no archaeological significance. The warehouse and other buildings to be demolished are not historically significant.

*(e) Supporting the use of alternative energy*

See Sec. 6.3.2 (f).

*(f) Brownfield sites*

The site is included on the Vermont DEC Hazardous Site List. Gasoline associated with an underground storage tank was the source of contamination. It appears that remediation activities have been completed.

*(g) Provide for nature's events*

See Sec. 5.5.3 for stormwater management. There remains sufficient space onsite for seasonal snow storage related to plowing.

*(h) Building location and orientation*

The restaurant will be situated as the warehouse presently is. Unsurprisingly, it will be oriented largely towards the lake; however, its apparent main entry will be visible from inland within the city. There will be an east-facing entry into the lounge as well. There is no uniform pattern of development on the ferry company property for the new restaurant to adhere to.

*(i) Vehicular access*

Vehicular access to the site will remain from King Street. Circulation and parking will extend north from the ferry company's driveway extending from the bottom of King Street.

*(j) Pedestrian access*

A new walkway will provide access from the parking areas to the new restaurant. This new walkway will extend south and connect with an existing walkway along the water's edge.

*(k) Accessibility for the handicapped*

Several handicap parking spaces are depicted in close proximity to the restaurant's main entrance. They are located with ready access to pedestrian walkways. It is the applicant's responsibility to comply with all applicable ADA requirements.

*(l) Parking and circulation*

Parking spaces and circulation aisles comply with the minimum dimensional requirements of Article 8. Parking spaces will be paved and striped.

Given that the parking area will be substantially revamped, it will need to include shade trees and comply with related shading requirements. No parking lot shading analysis is included in the sketch plans. This criterion establishes a target of 30% shading of the parking areas with new shade trees. At least 1 shade tree for every 5 parking spaces is required. Minimum caliper size at the time of planting is 2.5" – 3.5" and a mature canopy diameter of 35' is expected. Such details will be required with the formal permit application.

*(m) Landscaping, fences, & retaining walls*

Some basic landscaping details are included in the site plan and reflected in the perspective drawings. No landscaping is evident in the reconstructed parking lot and will be required as noted

above. Note that the site plans indicate a remaining gravel storage yard and access drive at the northern end of the site, whereas the renderings depict open lawn. This discrepancy needs to be corrected. The permit application will need to contain details as to proposed species, size at planting, and location.

The perspective drawings show a fence along the top of an existing retaining wall at the northwest corner of the restaurant. No other new fencing is evident. Details will be needed with the permit application.

No new retaining walls are proposed.

*(n) Public plazas and open space*

The 50' lakeshore setback effectively requires public open space along the water's edge. As proposed, there is publicly accessible space within this setback. Improved pedestrian circulation is recommended as noted before. There is significant opportunity at this location to provide an exceptional waterfront experience for the public.

*(o) Outdoor lighting*

See Sec. 5.5.2.

*(p) Integrate infrastructure into the design*

No new outdoor mechanical equipment is apparent in the sketch plans. Provision is needed for trash and recycling containers. Details will be required with the permit application. Any new utility lines must be buried.

**Part 3, Architectural Design Standards**

**Sec. 6.3.2, Review Standards**

*(a) Relate development to its environment*

*1. Massing, Height, and Scale*

The height and scale of the proposed restaurant will be similar to that of the warehouse it will replace. There are several buildings on the ferry company property, including some larger and some smaller than the proposed restaurant. The scale remains appropriate to the site. The massing of the restaurant building is more intricate than that of the warehouse building and includes well-defined components to add interest to the building design and to lessen perceived building bulk and uniformity.

*2. Roofs and Rooflines*

Most buildings onsite have pitched gable or shed roofs. The proposed restaurant will have a slightly pitched shed roof along with a portion of flat roof. While this roof form differs from others onsite, it works well with the proposed building design and remains appropriate to the site.

*3. Building Openings*

Ample glazing is proposed along the building's western and southern elevations. Significantly less is present along the eastern and northern facades. Additional glazing along the city-facing eastern elevation is recommended. Windows and doorways are stylistically consistent and appropriate to the proposed building design.

*(b) Protection of important architectural resources*

See Sec. 6.2.2 (d) above.

*(c) Protection of important public views*

See 6.2.2 (c) above.

*(d) Provide an active and inviting street edge*

The proposed building is set relatively far back from the street, deep into the lot. It has no street edge. The building does provide a city-facing eastern entrance into the restaurant lounge. As noted above, additional glazing along the eastern façade is encouraged. The primary entrance appears to be around the corner on the southern elevation. The open layout, abundant glazing, and sheltered entry make for an inviting entry into the building.

*(e) Quality of materials*

Exterior materials details are lacking in the sketch plans. Such information will be required with the permit application.

*(f) Reduce energy utilization*

The sketch plans depict solar panels on the upper roof deck facing south. In addition to this renewable energy feature, the new building will comply with the current energy efficiency requirements of the city and state.

*(g) Make advertising features complimentary to the site*

Two “Doc Ponds” wall signs are depicted on the north and south building elevations. No assessment has been made as to dimensional compliance with the sign standards of Article 7. All outdoor signs are subject to separate zoning permit review.

*(h) Integrate infrastructure into the building design*

No rooftop mechanical equipment is evident in the sketch plans. A chimney of sorts appears to rise above the kitchen area. If any rooftop mechanicals are proposed, they must be depicted and screened.

*(i) Make spaces safe and secure*

Building entrances are clearly visible and will presumably be illuminated. Whether the line of planters at the southeast corner of the new building will inhibit emergency vehicle access needs to be addressed (or revised) in the permit application.

**Article 8: Parking**

***Sec. 8.1.8, Minimum Off-Street Parking Requirements***

The subject property is located in the Multimodal Mixed-Use parking district. As a result, the proposed restaurant has no minimum onsite parking requirement.

***Sec. 8.1.9, Maximum On-Site Parking Spaces***

The maximum permissible parking space count for the restaurant is 20. This maximum is based on 100% of the shared use parking district requirement for a restaurant (3 spaces per 1,000 sf for a 6,500 sf restaurant). The proposed parking plan contains far more than 20 spaces. The permit application will need to indicate total existing onsite parking versus the total proposed. There will be a reduction in parking demand for the ferry transit use due to the removal of the warehouse and



auto shop building and an increase due to the restaurant. The end result cannot exceed 20 spaces for the restaurant.

***Sec. 8.1.10, Off-Street Loading Requirements***

Although not required in the multimodal parking district, a loading area is proposed at the northeast corner of the restaurant building.

***Sec. 8.1.11, Parking Dimensional Requirements***

As noted previously, the proposed parking spaces and circulation aisles comply with the dimensional minimums of this subsection.

***Sec. 8.1.12, Limitations, Location, Use of Facilities***

***(a) Off-Site Parking Facilities***

None proposed.

***(b) Front Yard Parking Restricted***

Not applicable.

***(c) Shared Parking***

Not applicable.

***(d) Single Story Structures in Shared Use Districts***

Not applicable.

***(e) Joint Use of Facilities***

Not applicable.

***(f) Availability of Facilities***

The parking to be constructed as part of this development must be for the exclusive use of employees, patrons, and visitors. It may not be used for the storage or display of vehicles or materials.

***Sec. 8.1.13, Parking for Disabled Persons***

Several handicap parking spaces are depicted on the sketch plans. These spaces shall be marked and signed as required for handicap spaces.

***Sec. 8.1.14, Stacked and Tandem Parking Restrictions***

Not applicable.

***Sec. 8.1.15, Waivers from Parking Requirements/Parking Management Plans***

Not applicable.

***Sec. 8.1.16, Transportation Demand Management***

Not applicable.

***Sec. 8.2.5, Bicycle Parking Requirements***

Both short term and long term bicycle parking will be required. The site plan depicts a location for bicycle parking, but details are lacking. The 6,500 sf restaurant requires 7 sheltered long-term bike

parking spaces and perhaps a dozen short term spaces (1 space per 500 sf seating area – confirmation is needed). Bike parking details will be required with the permit application.

## **II. Conditions of Approval**

None for sketch plan review.