

Department of Planning and Zoning

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TO: Development Review Board
FROM: Ryan Morrison, Associate Planner
DATE: May 19, 2020
RE: 20-0749CA; 1 King 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: DW-PT Ward: 3C/5S

Owner/Applicant: Lake Champlain Transportation Company

Request: Construct a shed to house a commercial ice machine.

Applicable Regulations:

Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Criteria & Guidelines)

Background Information:

The applicant is seeking approval to construct a shed to house a commercial ice machine. The shed (4' x 8') will be placed on an existing deck, and attached to an existing marina building.

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:

- 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

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

I. Findings

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, and this additional accessory structure will provide a needed convenience for operations. **Affirmative finding.**

(b) Dimensional Standards & Density

Dimensional standards will be unaffected by this project. The new shed will locate on an existing deck attached to a utility building, thus creating no additional lot coverage. Up to 100% lot coverage is permissible in this zoning district. **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 new shed will locate on an existing deck that is attached to a utility building, maintaining the existing setback. Pedestrian circulation will not be impacted. **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 addition of a shed placed on an existing deck will have little to no effect on flood heights or velocities. **Affirmative finding.**

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

If properly anchored/secured, the shed will be 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 base elevation of the shed is just below the 102' base flood elevation – at 101.5 ft. The applicant notes that all that the shed will be used for is to house an ice machine, and that all electrical components within will be elevated to an elevation of at least 105'. The shed will be securely 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 noted above, no new use is proposed. The ferry company is logically located along the lakeshore. The shed will locate on top of an existing deck on the site. **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 new shed, locating on an existing deck and enclosed on three sides by portions of a marina building and a gas tank, should not create any new 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, 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 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. No new lights are proposed.

Sec. 5.5.3, Stormwater and Erosion Control

Not applicable. No new lot coverage is proposed.

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, but it's downtown location means it is not included in the lakeshore buffer. Almost the entire site is affected by the Natural Resource Protection Overlay District, specifically the special flood hazard area.

The proposal results in no new lot coverage, with the shed locating on top of an existing deck, surrounded on three sides by existing structures. **Affirmative finding.**

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

Sec. 6.3.2, Review Standards

(a) Relate development to its environment

1. Massing, Height, and Scale

The proposed shed will locate on top of an existing deck, and connect to an existing marina building. It will be surrounded on three side by the marina building on one side, and gas tanks

on the other two sides. The elevation drawing provided shows that the sloped roof of the existing marina building will be extended to act as the roof of the shed. Since it will be difficult to see from most of the surrounding site, the new shed will not alter the exterior appearance of the existing marina building's massing, height, and scale. **Affirmative finding.**

2. Roofs and Rooflines

The shed roof will actually be an extension of the existing marina building's sloped roof. No new roof form is proposed. **Affirmative finding.**

3. Building Openings

The shed will have two openings: a 36" x 80" wooden door on the east side of the shed, and a 36" x 40" window on the west side of the shed. No spec sheets have been provided for the door and window as of the preparation of this report. The applicant will have to provide these for staff review and approval. **Affirmative finding as conditioned.**

(b) Protection of important architectural resources

Not applicable.

(c) Protection of important public views

Since the shed is locating between existing structures and will be difficult to see from the surrounding area, no negative impacts to views are anticipated. **Affirmative finding.**

(d) Provide an active and inviting street edge

Not applicable.

(e) Quality of materials

The applicant indicates that the shed will have wood siding, although the specific type (clapboards, shakes, plywood, etc.) has not been identified. Also, the specific type of window (material and style) has not been identified and will need to be. The applicant will need to provide this information to staff for review and approval. The metal roof on the existing marina building will be extended to act as the new shed roof. **Affirmative finding as conditioned.**

(f) Reduce energy utilization

Because the shed will not be finished habitable space, it will not be subject to the energy efficiency standards of Burlington and the State of Vermont. **Affirmative finding.**

(g) Make advertising features complimentary to the site

Not applicable. No advertising is included in this proposal.

(h) Integrate infrastructure into the building design

The purpose of the shed is to house a commercial ice machine. Included inside will also be all electrical components. **Affirmative finding.**

(i) Make spaces safe and secure

The shed will be accessed from only one side – the east side. The applicant indicates that the door will be a locking door. **Affirmative finding.**

II. Conditions of Approval

1. **Prior to the release of the zoning permit**, the applicant shall submit spec sheets for the proposed window, door, siding, and roof to staff for review and approval.
2. The shed 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.
3. All development shall be designed to minimize flood damage to the proposed development and to public facilities and utilities.
4. All development shall be designed to provide adequate surface drainage to reduce exposure to flood hazards.
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.