

Department of Permitting & Inspections

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MEMORANDUM

TO: Development Review Board
FROM: Ryan Morrison, Associate Planner
DATE: May 19, 2020
RE: 20-0802CA; 505 Lake Street (381-475 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: DW-PT Ward: 3C

Owner/Applicant: City of Burlington / Lake Champlain Community Sailing Center

Request: Construct a concrete foundation/pad for the installation of a new steel gangway extending into Lake Champlain to connect to the existing dock system.

Applicable Regulations:

Article 2 (Administrative Mechanisms), Article 4 (Zoning Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Criteria & Guidelines)

Background Information:

The applicant is seeking approval to construct a concrete foundation/pad for the installation of a new gangway extending into Lake Champlain to connect to the existing dock system. Projects over the Lake Champlain waterbody are subject to State review and permitting, and are not within City jurisdiction. The specific aspect of this project that is subject to City review is strictly the concrete foundation/pad.

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:

- 10/15/80, Approval for the installation of an electrostatic precipitator and coal handling system.
- 6/14/90, Approval for site work at the Moran Plant to 1) improve the aesthetics of an empty property until its reuse and 2) to make the exterior northern area accessible to the public to observe the summer sculpture symposium.
- 8/9/90, Approval to remove the 'car shaker' structure.
- 5/23/91, Approval for a new landscape display-exhibit.
- 8/18/92, Approval to remove a chain link fence, and install a new chain link fence surrounding the railroad tracks.

- 5/27/93, Approval to utilize the Moran Plant parking area and lake access for a small boat launching and storage facility, called the Lake Champlain Community Sailing Center. Includes a hoist and crane, sluice way, ramp, staging docks, and floating breakwater.
- 12/8/93, Approval for a new sign for the boat facility.
- 7/14/94, Approval to revise the access route to the small boat facility.
- 5/2/95, Approval to install a freestanding entry gate sign for the boat facility.
- 1/23/97, Approval to remove an existing nonstructural steel ladder and equipment systems.
- 1/22/98, Approval to construct a 22,900 sf seasonal outdoor skate park.
- 10/9/97, Approval for soil treatment work, contained within berms.
- 4/20/98, Approval to replace a chain link fence.
- 5/19/98, Approval to install a freestanding sign.
- 5/21/00, Approval to install 2 signs – one freestanding and one placed on a fence.
- 11/13/00, Approval to install a freestanding sign.
- 3/20/01, Approval to install a portable restroom with surrounding fencing.
- 7/29/02, Approval to install parallel signage.
- 11/13/02, Approval to construct a deck and handicap access ramp.
- 5/6/03, Approval to install a deck.
- 7/18/03, Approval to place fill (20,000 yard approx.), regrade to match historic contours, and revegetate site with conservation mix to stabilize slope.
- 8/18/03, Approval to create a temporary parking area for construction workers from the 300 Lake Street housing project.
- 3/19/04, Approval to install fencing.
- 6/25/09, Approval for interior cleanup.
- 1/19/10, Approval for winter snow storage for the City.
- 8/17/10, Approval for the redevelopment of the Moran Plant into public/private uses and associated site work and parking, includes community sailing center.
- 8/2/10, Approval for a lot line adjustment.
- 4/29/11, Approval to reconfigure boat storage yard fence to a new location.
- 9/19/11, Approval to amend previous zoning permit for road and parking lot changes, finish pier, and alter skate park.
- 6/27/12, Approval for the biennial review of winter snow storage for the City.
- 9/24/15, Approval for the biennial review of winter snow storage for the City.
- 12/1/15, Approval for the renovation and the addition to the Moran Plant with associated site improvements.
- 11/15/16, Approval for the renewal of the winter snow storage plan.
- 9/27/16, Approval to adjust the location of the proposed sailing center and related site changes.
- 5/26/16, Approval to construct a new 68 space surface parking lot, altering the previously approved 73 space lot.
- 9/19/17, Approval for 9 onsite parking spaces, including a parking waiver.
- 10/9/17, Approval for 6 new signs.
- 7/16/19, Approval for the Moran redevelopment – partial building deconstruction and installation of public restroom and site improvements.
- 10/15/19, Approval for the snow storage plan.

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

I. Findings

Article 2: Administrative Mechanisms

Part 7: Enforcement

Sec. 2.7.8, Withhold Permit

A number of zoning permits have been approved for the subject property. Some, but not all, have final certificates of occupancy. Per this section, prior to issuance of a final certificate of occupancy for this project, any zoning permits not yet closed out with final certificates of occupancy must be addressed. **Affirmative finding as conditioned.**

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 (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 community sailing center is consistent with this intent. **Affirmative finding.**

(b) Dimensional Standards & Density

Dimensional standards are unaffected by this project. Because the foundation/pad is locating on an existing internal roadway, lot coverage will remain the same as existing. Up to 100% lot coverage is permissible. **Affirmative finding.**

(c) Permitted & Conditional Uses

See (d) 1 below.

(d) District Specific Regulations

1. Use Restrictions

A. Permitted Uses: North of Main Street

Only the following uses are permitted within that portion of the Downtown Waterfront – Public Trust District (DW-PT) located north of the centerline of Main Street extended:

(ii) Indoor or outdoor parks and recreation uses and facilities including parks and open space, marinas open to the public on a non-discriminatory basis, water dependent uses, boating and related services.

(v) Services related and accessory to the uses permitted under subsections (i) through (iv) of this section, including restaurants, snack bars, and retail uses and ancillary parking; only those uses that are subordinate and customarily incidental to the uses listed shall be considered as related and accessory services; and/or

(vi) Railroad, wharfing, and storage uses.

The existing community sailing center is a use permitted in this section of the DW-PT district. The proposed concrete foundation/pad for a new gangway locating over the waters of Lake Champlain is accessory to the overall use of the property. **Affirmative finding.**

B. Permitted Uses: Maple to Main Street
Not applicable.

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 community sailing center 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 proposal is to install a concrete foundation/pad for a new gangway extending over Lake Champlain and connecting to an existing dock system. Since the gangway will locate above the waters of Lake Champlain, it does not fall under City jurisdiction. The proposed foundation/pad at the lake edge is, however, subject to City review and approval. The project will enhance the pedestrian environment and enjoyment of the waterfront.
Affirmative finding.

5. Development Bonuses/Additional Allowances
Not applicable.

Sec. 4.5.4, Natural Resource Protection Overlay District:

The 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 at-grade placement of a concrete foundation/pad will have no effect on flood heights or velocities. **Affirmative finding.**

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

The concrete foundation/pad 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...

Given its low elevation adjacent to the lakeshore, the property has been flooded a number of times. The new foundation/pad will have no bearing on the susceptibility to flooding, and will be unsusceptible to flotation, collapse, or lateral movement. **Affirmative finding as conditioned.**

E. The importance of the services provided...

No new use is proposed. The community sailing center will remain. **Affirmative finding.**

F. The availability of alternative locations...

As noted above, no new use is proposed. The community sailing center is logically located along the lakeshore. **Affirmative finding.**

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

As previously noted, the community sailing center has been in existence for several years now, and no new use is being proposed. The proposed foundation/pad will serve as an accessory use for lake access. **Affirmative finding.**

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

No new use is proposed. The community sailing center 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 much of the site lies within the Special Flood Hazard Area, access to it remains accessible from Lake 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 concrete foundation/pad will have no 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

No new lot coverage is proposed. The concrete foundation/pad will locate on an existing roadway within the site. The roadway runs along the edge of the existing seawall on the lakeshore.

Affirmative finding.

Sec. 5.2.4, Buildable Area Calculation

Not applicable in the DW-PT district.

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

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 lighting is proposed.

Sec. 5.5.3, Stormwater and Erosion Control

Not applicable. The proposed 10' x 15' pad, locating on existing roadway surface, does not trigger the requirement to submit an Erosion Prevention and Sediment Control (EPSC) Plan.

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; however the downtown waterfront is not affected by the lakeshore buffer zone. It does, however, lie in a Special Flood Hazard Area. The proposal includes the placement of an at-grade concrete foundation/pad on an existing roadway surface. The project will result in no change to the existing dynamics of the property. Beyond the scope of this pad is a new gangway extending over Lake Champlain itself, but because that is within state waters, the applicant will be tasked with obtaining all necessary state permits from the Agency of Natural Resources and possibly the U.S. Army Corps of Engineers. **Affirmative finding as conditioned.**

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
(Not applicable)

II. Conditions of Approval

1. **Prior to issuance of a certificate of occupancy for this zoning permit**, all prior zoning permits that have expired without their required certificates of occupancy shall be closed out with final certificates of occupancy. The applicant is advised to seek certificates of occupancy for these older zoning permit prior to seeking a certificate of occupancy for this new zoning permit.
2. The concrete foundation/pad 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. The development shall be designed to minimize flood damage to the proposed development and to public facilities and utilities.
4. The Applicant/Property Owner is responsible for obtaining all necessary state and federal permits.
5. 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.
6. Standard permit conditions 1-15.