

Department of Permitting & Inspections

Zoning Division
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TO: Development Review Board
FROM: Ryan Morrison, Associate Planner
DATE: September 20, 2022
RE: ZP-22-403; 136 Sunset Cliff Road

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: RL-W Ward: 4N

Owner/Applicant: 136 Sunset Cliff Camp, LLC / William de Vos

Request: Remove various hazardous and dead trees from the property.

Applicable Regulations:

Article 4 (Zoning Maps and Districts), Article 5 (Citywide General Regulations)

Background Information:

The applicant is seeking approval to remove approximately 10 hazardous/dead trees, ranging between 3-16" in caliper, from the property. The trees are located on and near a steep slope above the Lake Champlain waterfront. Construction of a new single-family residence, permitted in 2021, is underway.

The Stormwater Program Coordinator and City Arborist both reviewed this request, acknowledged the work on the steep slope, and confirmed that they have no concern over the proposed tree removal. The Conservation Board reviewed this application on August 1, 2022, conducted a site visit on September 7, 2022, and heard it again at their September 12, 2022 meeting. They recommended approval of the project and advised the applicant to; keep the three cedar trees on the south side of the property in place due to habitat, soil erosion, and screening from the lake; and if two Norway maples come down, replace them with serviceberry or another similar native species.

This application is reviewed under the Tree Removal standards of Article 5 and Article 4 of the Comprehensive Development Ordinance.

Previous zoning actions for this property:

- **Zoning Permit 21-0958CA;** demolish existing camp and construct new single-family residence. Approved July 2021.

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

I. Findings

Article 4: Zoning Maps and Districts

Sec. 4.5.4, Natural Resource Protection Overlay (NR) District

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

(1) Permitted Uses

Except where otherwise noted herein, only the following uses are permitted within the Riparian and Littoral Conservation Zone and its associated buffer subject to the requirements and limitations set forth below under subpart 4.

E. Selective cutting of less than 25 percent of the trees six inches or more in diameter at breast height over any 10 year cycle.

The proposed tree clearing falls within the permitted limits identified in this section. **(Affirmative finding)**

Article 5: Citywide General Regulations

Sec. 5.5.4, Tree Removal

(a) Review criteria for zoning permit requests for tree removal

(1) Grounds for approval

Tree removal involving six (6) or more trees, each of ten (10) inches or greater in caliper or the removal of ten (10) or more trees, each of which is three (3) inches or greater in caliper during any consecutive twelve (12) month period may be permitted for any of the following reasons:

A. Removal of dead, diseased, or infested trees;

The applicant provided photos of the trees proposed for removal and notes that some are dead or dying. An arborist report was not included in the application submittal, and it is difficult to tell which trees are dead/dying in the photos provided. The photos do show trees that appear to be hazardous to the property, particularly to the new home currently under construction. Given the location on the steep slope above Lake Champlain, these trees appear to have been affected by high winds as indicated by their ‘leaning’ nature. **(Affirmative finding)**

B. Thinning of trees for the health of remaining trees according to recognized accepted forestry practices; (Not applicable)

C. Removal of trees that are a danger to life or property; or,

As noted above, photos provided show numerous trees that have been affected by winds and are clearly leaning over. These trees present a clear hazard to the home site. **(Affirmative finding)**

D. As part of a development with an approved zoning permit.

Ideally, the trees identified as part of this application would have been included within the development plans for the new home permitted under ZP21-0958CA. However, now that construction is underway, it is apparent which trees will present hazard to the new home. **(Affirmative finding)**

(2) Grounds for denial

Tree removal involving six (6) or more trees, each of ten (10) inches or greater in caliper or the removal of ten (10) or more trees, each of which is three (3) inches or greater in caliper

during any consecutive twelve (12) month period may be denied if existing healthy trees are known to be:

A. Providing a significant privacy or aesthetic buffer or barrier between properties;
(Not applicable)

B. Providing stabilization on slopes vulnerable to erosion;
(Not applicable)

C. Located within a riparian or littoral buffer;

The subject property is wholly affected by the Riparian and Littoral Conservation Zone (250' width from the 95.5' lakeshore elevation). This overlay zone limits the clearing of vegetation and new stormwater outfalls. The Conservation Board reviewed the application on August 1, September 7 (site visit), and September 12, 2022, and recommended approval with specific advisement to the applicant to: keep the three cedar trees on the south side of the property in place due to habitat, soil erosion, and screening from the lake; and if two Norway maples come down, replace them with serviceberry or another similar native species. Additionally, the Stormwater Program Coordinator reviewed the application and had no concerns. Nothing in the proposal, per the riparian/littoral buffer, represents grounds for denial. **(Affirmative finding as conditioned)**

D. Provide unique wildlife habitat;
(Not applicable)

E. A rare northern Vermont tree species as listed by the Vermont Natural Heritage Program; or,
(Not applicable)

F. A significant element or, or significantly enhances, an historic site.
(Not applicable)

II. Conditions of Approval

1. As recommended by the Conservation Board, the applicant shall:
 - keep the three cedar trees on the south side of the property in place; and
 - if two Norway maples come down, replace them with serviceberry or another similar native species.
2. Standard permit conditions 1-15.