

INCENTIVE ZONING NARRATIVE

Local Law 9 of 2022, § 220-31(G)(3)

Introduction

A community's culture is defined by its people, and when its people work together, they can accomplish far more than they ever could alone. Over the last few years, there has been a need for the Town of Canandaigua to meet the demands of a remarkably diverse growing population. Elected officials, town staff, and interested citizens have thought about how we can continue to meet public needs while simultaneously expanding what the Town has to offer, all with little or no increase in town taxes.

After weeks and months of conversation, the Town's Ordinance Committee proposed amendments to the Town's Incentive Zoning Law, which was passed by the Town Board on November 21, 2022. These amendments allow the Town Board to now consider incentive zoning applications from any zoning district in the Town of Canandaigua. This current application, submitted by German Brothers Marina, LLC and 3907 West Lake Road, LLC,¹ is the first incentive zoning application in the Town's Residential Lake Zoning District (the "RLD").

The German Brothers Marina has been an important and stable business in the Town of Canandaigua for decades. For more than forty-three years (1977 to 2021), Rick and Peter German operated the German Brothers Marina. During that period, the Germans consistently delighted their customers and became an integral part of the lake-oriented economy for which Canandaigua is so well known.

In 2021 the Germans sold their marina business and the underlying real property to German Brothers Marina LLC and 3907 West Lake Road, LLC, respectively, of which Peter Bruu is the Managing Member of each. Intent on ensuring that the marina is viable for another forty-three years, and beyond, Peter approached the Town Ordinance Committee in 2021 to discuss how he could expand and strengthen the marina within the framework of the Town's land use regulations. Thereafter, the Town Ordinance Committee's decision to propose amendments to the Town's incentive zoning law, which the Town Board adopted in 2022. The current application, the first brought in the RLD under the 2022 amendments (copy attached), seeks a preliminary evaluation of the amenities that the Marina proposes

¹ German Brothers Marina, LLC operates the German Brothers Marina located at 3907 County Road, in the Town of Canandaigua. The real property that will be utilized in this project is located at 3904 County Road 16, 3907 County Road 16, and 3935 County Road 16. The 3904 County Road 16 and 3907 County Road 16 and are part of 3907 West Lake Road LLC. 3935 County Road is currently under contract and will be closing early July 2023. It is anticipated that the 3935 County Road 16 property will be owned by 3907 West Lake Road LLC.

in exchange for the incentive zoning needed to secure the marina's long-term success and viability.

Application Process

The Town's incentive zoning law, found at Town Code § 220-31, gives the Town Board the exclusive authority to approve or deny all incentive zoning applications. The application process is divided into three phases.

The first phase is the submission of an application for "preliminary evaluation," which is described in Town Code § 220-31(G). Due to the complexity of incentive zoning applications, the Town Board must complete a preliminary evaluation of the "adequacy of the amenities to be accepted in exchange for the requested incentive." Town Code § 220-31(G). The purpose of this preliminary evaluation is not to approve or deny a proposed project, but rather to "inform the applicant whether or not the proposal is worthy of further consideration." *Id.* At this initial stage, the applicant must submit (i) a sketch plan of the proposed amenity, (ii) the value of the proposed amenity, and (iii) a project narrative. *Id.* at § 220-31(G)(1)-(3).

The second phase is referral to the Town of Canandaigua Planning Board and other governmental agencies, which is described in Town Code § 220-31(I) and (M). The application for preliminary evaluation is initially sent to the Planning Board for review and comment. Within forty-five (45) days from the date of the Planning Board meeting in which the proposal is first placed on the agenda, the Planning Board must deliver to the Town Board a written report with its evaluation of "the adequacy with which the amenity(ies)/incentive(s) fit the site and how they relate to adjacent uses and structures. *Id.* at § 220-31(I). Simultaneous with the referral to the Planning Board, the application is also referred, where appropriate, to agencies, which may include the Ontario County Planning Board and neighboring municipalities. *Id.* at § 220-31(M).

The third phase is reviewed by the Town Board. After receiving the report from the Planning Board and referral responses, if any, from other governmental agencies, the Town Board reviews the application for preliminary evaluation and notifies the applicant "whether or not it is willing to further consider the proposal and hold a public hearing thereon." *Id.* at § 220-31(J). If the Town Board approves the application for preliminary evaluation, it then schedules a public hearing to consider the project before voting on whether to approve the incentive zoning. *Id.*

Proposed Amenities

As shown on the enclosed sketch plan, the applicant, 3907 West Lake Road, LLC, is proposing a complete renewal of the marina, which will include the following new public amenities:

Safety Access Management: Removal of all existing boats/trailers from County Road 16 right-of-way and all boat storage on the upland portion of the property. Boat trailers will be limited to unloading/loading, with boat trailers attached to a GBM truck or tractor. The applicant will install 115 parking spaces to accommodate all marina business patrons and public guests. Safe ingress and egress for private parking facilities on the upland side of West Lake Road will be provided via new pedestrian crosswalks. The lake-side shoulder of West Lake Road will be improved with an active shoulder lane for walkers, runners, and bikers. The applicant will work with the Town of Canandaigua and Ontario County on the physical improvements.

Public Lake Access: The applicant will grant the Town of Canandaigua a thirty (30) year license² to sixty (60) feet of lake frontage for public use, which will be approximately thirty (30) feet deep. Permitted use will include fishing, picnic tables, and scenic viewing. This lake frontage license area will not include a public swimming area and will have signage posted stating that the public use area is open from sunrise to sunset.

Public Small Watercraft Launch Area: The applicant will install a small watercraft launch/removal apparatus for kayaks, canoes, paddle boards, etc. that will connect to the Canandaigua Water Trail. The public will be granted access via a thirty (30) year license to the Town of Canandaigua.

Public Boat Slips: Installation of six (6) public boat slips for transient use (2-hour maximum stay). The applicant will grant a 30-year license to the Town of Canandaigua for public use of the slips. Signs will designate the slips as “public use” with a 2-hour maximum stay. Marina staff will encourage owners to remove their boats if they exceed the allotted time.

Public Parking: Ten (10) parking spaces on the upland side of CR16 will be installed to support the public use of the sixty-foot public lake frontage, small watercraft launch area, and public boat slips. These parking spaces will also be subject to the thirty (30) year license.

Public Access for Trail Connector: The applicant will give the Town of Canandaigua a thirty (30) year license for an access point on the northwest corner of the property for a potential public trail via the HOA open lands on the proposed RSM development site. The exact size and location of the trail, if built, will be mutually agreed upon by the Town of Canandaigua and the applicant, with the trail construction costs to be paid by the Town of Canandaigua.

² The terms of the thirty (30) year license to the Town of Canandaigua for access to all public areas of the project will be mutually negotiated by the respective counsel for the applicant and the Town of Canandaigua, and will include all standard terms and conditions, including indemnification from the Town of Canandaigua for any claim arising from public use.

Public Restrooms: Installation of public restrooms available April 1st to October 30th, sunrise to sunset. The cost of these restrooms and all maintenance and operating expenses will be covered by the applicant. As will the other public amenities, the applicant will grant the Town of Canandaigua a thirty (30) year license for the public use of the restrooms.

Reduced Mooring Area: Removal of approximately twenty (20) moorings, which will surrender 30,000 sq.ft. of lake surface area. This will improve visual sight lines and improve boat safety on the lake.

TOTAL AMENITIES INVESTMENT > \$1,681,000
(Excluding the safety access management and reduced mooring area)

Proposed Incentives from the Town of Canandaigua

The marina renewal shown on the enclosed sketch plan will require several incentives from the Town of Canandaigua.

1. *Dwelling Unit Density:* The applicant is requesting approval for four (4) dwelling units on the south parcel, along with a non-domiciliary gathering lodge, two (2) dwelling units on the central parcel, and two (2) dwelling units on the north parcel.
2. *Lot Area:* The applicant is requesting approval of three (3) separate lots, each of approximately 1.84 acres.
3. *Approved Uses:* Currently Residential Lake District – Pre-Existing; Non-Conforming Use. The applicant is requesting the approval of Commercial uses, such as boat rental and tour services, community recreation, marina, retail, restaurant, and house rental.
4. *UDML Designation and Variances:* The applicant is requesting that the Town Board designate the project as a “tier 2” marina under the Uniform Dock and Mooring Law to support the Commercial usage of adjoining parcels.

These incentives will be used to completely renew and modernize the marina. On the lakeside, the project will include a small retail building of approximately 1,500 sq. ft. that will sell boating supplies, local theme-based novelties, and include an ice cream/coffee shop. This retail store will be built on the footprint of the lakeside structure that is currently on the property. The retail store will be accompanied by a new 3,800 sq. ft., two-story restaurant that will be on the lakeside and replace the current marina service building.

On the upland side of the property, the boat and trailer storage that currently occupies the property will be replaced by eight (8) elegant cottages. Sustainability will be a major focus throughout the project, and we will provide top-tier stormwater management solutions to protect the lake. Our professional engineers, Costich Engineering, have already confirmed with Ontario County that there is adequate sanitary sewer and transportation infrastructure to support the project. We look forward to confirming with the Town of Canandaigua that the current water system is sufficient.

The goal behind the renewal of the marina is to create a sustainable and welcoming family destination that will be enjoyed by both Town residents and visitors. We estimate that the proposed improvements to the marina, if approved, will result in additional increases in property and sales tax for the Town of Canandaigua.

The marina is all about getting people in and on the water and enjoying all that Canandaigua Lake has to offer. We want to expand lake access for visitors and Town residents. Public lake access will be augmented by casual dining, elegant lodgings, and family-oriented meeting places.

We look forward to being able to further discuss how the renewal of the German Brothers Marina will bring long-term benefits to the Town and its residents. We welcome the opportunity to further discuss this proposal with the Town Board.

Let us enjoy the lake!
Let us get on the water!
Let us be inspired by the water!
Let us share the lake!

Respectfully submitted,

/s/ Peter Bruu

Peter Bruu, Managing Member of
3907 West Lake Road, LLC
German Brothers Marina LLC