

## Department of Planning and Zoning

149 Church Street  
Burlington, VT 05401  
Telephone:(802) 865-7188  
(802) 865-7195 (FAX)  
(802) 865-7142 (TTY)

*David White, AICP, Director  
vacant, Assistant Director  
vacant, Comprehensive Planner  
Jay Appleton, GIS Manager  
Scott Gustin, AICP, Senior Planner  
Mary O'Neil, Associate Planner  
Anita Wade, Zoning Clerk  
Elsie Tillotson, Department Secretary*



**TO:** Development Review Board  
**FROM:** Scott Gustin  
**DATE:** September 15, 2015  
**RE:** 16-0266CA; 25 Cherry 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: D                      Ward: 3C

Owner/Applicant: Burlington Harbor Hotel Group, LLC

**Request:** Construct open air pavilion and masonry barbecue with structure to cover existing outdoor dining and event space

### **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 an open air pavilion to provide shelter for an existing outdoor dining and event space behind the Marriott hotel. No change in use is proposed, and little about the site will change. The pavilion's size exceeds 500 sf and, therefore, requires DRB review.

Previous zoning actions for this property are noted below.

- 4/17/15, Approval of courtyard, circulation, and landscaping changes
- 11/5/14, Approval of restaurant sign
- 6/29/10, Approval of building material changes
- 6/11/10, Approval of signs
- 5/28/10, Approval of sculpture lights
- 11/7/08, Approval of sign
- 5/30/08, Approval of addition to hotel
- 3/9/07, Approval to split hotel component into separate phase 2 of original mixed use project
- 8/30/04, Approval to construct mixed use hotel, condominium, office, and garage development

**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**

###### **(1) Downtown (D)**

The subject property is located in the Downtown zone, the city's primary urban center. The pavilion will serve as an amenity to an existing hotel, appropriately located in this zone.

**(Affirmative finding)**

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

The proposed open air pavilion will not affect existing FAR.

Lot coverage is virtually 100% and will not change with construction of the pavilion. Onsite "greenery" is mostly green roof material.

No setbacks are required for the proposed pavilion.

The pavilion will be 11' tall with a somewhat taller chimney at one end. This height is well below the maximum permissible 65'. As an accessory structure, the pavilion does not need to achieve the standard 30' minimum Downtown zone height. **(Affirmative finding)**

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

Hotels are a permitted use in the D zone. The proposed pavilion will be accessory thereto.

**(Affirmative finding)**

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

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

###### **A. Ground Floor Residential Uses Restricted**

No residential use is included in this proposal. **(Not applicable)**

###### **B. Residential/Nonresidential Mix Required**

Residential uses onsite will remain unchanged by this application. **(Not applicable)**

###### **2. Public Trust Restrictions**

The subject property is not located within the Public Trust. **(Not applicable)**

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

It appears that the proposed pavilion will be set back at least 10' from the southern and eastern property lines. The neighboring Hilton hotel is more than 10' from the southern property line, making this setback moot. The Lakeview Garage to the east is set on the property line, thereby necessitating a 10' pavillion setback from the eastern property line. **(Affirmative finding)**

###### **4. Building Height Setbacks**

###### **A. Principal View Corridors**

The proposed pavilion will not impact the Cherry Street view corridor in any way.

**(Affirmative finding)**

***B. Church Street Buildings***

The subject property is not located along the Church Street Marketplace. **(Not applicable)**

***5. Lake Champlain Waterfront Setbacks***

The subject property is not located along the Lake Champlain waterfront. **(Not applicable)**

***6. Development Bonuses/Additional Allowances***

No development bonuses or additional allowances are sought under this criterion. **(Not applicable)**

**Article 5: Citywide General Regulations**

***Sec. 5.2.3, Lot Coverage Requirements***

See Sec. 4.4.1 (b) above.

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

This criterion does not apply to properties in the D zone. **(Not applicable)**

***Sec. 5.2.5, Setbacks***

See Sec. 4.4.1 (b) above.

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

See Sec. 4.4.1 (b) above.

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

See Sec. 4.4.1 (b) 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***

The pavilion will be illuminated, and lighting fixture details have been provided. The fixtures themselves are acceptable, but there is no photometric plan depicting illumination levels within the pavilion. One is needed in order to confirm acceptable illumination levels. **(Affirmative finding as conditioned)**

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

No excavation is proposed, nor is any increase in lot coverage. Note that the pavilion will have a “green roof” to offset the green roof being lost under its footprint. **(Affirmative finding)**

**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***

No trees or other significant vegetation will be removed as part of this proposal. There are no significant natural areas on the property. **(Affirmative finding)**

*(b) Topographical alterations*

No topographical alterations are proposed. **(Affirmative finding)**

*(c) Protection of important public views*

As noted previously, the pavilion will not affect the Cherry Street view corridor. **(Affirmative finding)**

*(d) Protection of important cultural resources*

There are no known archaeological resources on the property. The subject property contains no historic structures. **(Affirmative finding)**

*(e) Supporting the use of alternative energy*

There is no indication that the pavilion will utilize alternative energy; however, the new structure will not inhibit the use of alternative energy either onsite or on neighboring properties. **(Affirmative finding)**

*(f) Brownfield sites*

The subject property is not an identified brownfield. **(Not applicable)**

*(g) Provide for nature's events*

Lot coverage will not change, and the existing stormwater system will remain unchanged as well. Green roof area lost to the footprint of the pavilion will be offset with new green roof space on top of the pavilion. **(Affirmative finding)**

*(h) Building location and orientation*

The pavilion is an accessory structure and is appropriately set to the rear of the site, behind the primary structures set close to the city streets. **(Affirmative finding)**

*(i) Vehicular access*

Vehicular access to the site will not change. **(Affirmative finding)**

*(j) Pedestrian access*

Pedestrian access to the site will not change. Existing walkways internal to the site will provide access to the proposed pavilion. **(Affirmative finding)**

*(k) Accessibility for the handicapped*

It appears that the pavilion will be handicap accessible. Accessibility standards are administered through the building code. It is the applicant's responsibility to comply with all applicable ADA requirements. **(Affirmative finding as conditioned)**

*(l) Parking and circulation*

The pavilion will not impact parking or circulation onsite. **(Affirmative finding)**

*(m) Landscaping and fences*

New “landscaping” is limited to the green roof proposed on top of the pavilion. No new fencing is evident in the project plans. **(Affirmative finding)**

*(n) Public plazas and open space*

The proposed pavilion will be placed next to an existing plaza space and will afford shelter not presently available. **(Affirmative finding)**

*(o) Outdoor lighting*

See Sec. 5.5.2.

*(p) Integrate infrastructure into the design*

No new ground-mounted mechanical equipment is proposed. **(Affirmative finding)**

**Part 3, Architectural Design Standards**

**Sec. 6.3.2, Review Standards**

*(a) Relate development to its environment*

*1. Massing, Height, and Scale*

The pavilion is an accessory structure and is appropriately scaled. As an open air structure, its massing is slight and clearly secondary to that of the primary structures onsite. **(Affirmative finding)**

*2. Roofs and Rooflines*

The pavilion will have a flat roof. This roof form reflects that of the neighboring hotels and also serves as a functional basis for the proposed green roof system. **(Affirmative finding)**

*3. Building Openings*

Not applicable.

*(b) Protection of important architectural resources*

There are no historic structures on the subject property. The proposed pavilion will not adversely impact Burlington’s cultural or architectural heritage. **(Affirmative finding)**

*(c) Protection of important public views*

See 6.2.2 (c) above.

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

Not applicable.

*(e) Quality of materials*

The pavilion will be a steel structure. Cedar fascia will be installed along the roofline. Retractable fabric sides are proposed for additional protection from inclement weather. The chimney will be board-formed concrete. These materials are acceptable. **(Affirmative finding)**

*(f) Reduce energy utilization*

Lighting within the pavilion must adhere to the city’s current energy efficiency requirements. **(Affirmative finding as conditioned)**

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

Not applicable.

*(h) Integrate infrastructure into the building design*

Grilles, tables, serving counters, etc. are proposed within the pavilion. No rooftop mechanical equipment is proposed. **(Affirmative finding)**

*(i) Make spaces safe and secure*

Illumination within the pavilion is proposed. As noted previously, onsite access and circulation remains unchanged. The outdoor grille should be reviewed by the fire marshal if not done so already. **(Affirmative finding as conditioned)**

## **II. Conditions of Approval**

1. **Prior to release of the zoning permit**, a photometric plan for pavilion lighting shall be provided in conformance with the standards of Sec. 5.5.2, subject to staff review and approval.
2. **Prior to release of the zoning permit**, the applicant shall obtain written approval from the Burlington Fire Marshal for the proposed outdoor grille.
3. It is the applicant's responsibility to comply with all applicable ADA requirements.
4. All new construction is required to meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.
5. Standard Conditions 1-15.