

Department of Permitting & Inspections

Zoning Division
645 Pine Street
Burlington, VT 05401
Telephone:(802) 865-7188

*William Ward, Director
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Vacant, Planning Technician
Celeste Crowley, Planning & Zoning Clerk
Ted Miles, Zoning Specialist
Charlene Orton, Permitting & Inspections Administrator*



TO: Development Review Board
FROM: Ryan Morrison, Associate Planner
DATE: February 1, 2022
RE: ZP-21-804; 2-14 King Street

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 / Christopher Burke

Request: Request to construct a new restroom structure.

Applicable Regulations:

Article 3 (Applications, Permits, and Project Reviews), Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Criteria & Guidelines), Article 8 (Parking)

Background Information:

The applicant is seeking to replace an existing accessory structure with a new restroom structure. Although the proposed structure will be larger, it will have a greater setback from the waterfront.

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 were received from the floodplain coordinator within the 30-day comment period, which began December 7, 2021.

Previous zoning actions for this property:

- 8/30/21, Approval for a rooftop deck.
- 4/21/21, Approval for a cupola.
- 4/21/21, Approval to relocate condenser units to a rooftop.
- 3/3/21, Approval to renovate restaurant and construct restroom building in front.
- 10/6/20, Approval for the construction of an accessory building with attached deck.
- 5/19/20, Approval for the construction of a shed to house a commercial ice machine.
- 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: Certificate of Appropriateness approval as per, and subject to, the following findings and conditions.

I. Findings

Article 3: Applications, Permits, and Project Reviews

Part 3, Impact Fees:

Sec. 3.3.2, Applicability

Any new development or additions to existing buildings which result in new dwelling units or in any new non-residential buildings square footage are subject to impact fees.

Impact fees shall be calculated based on the total gross square footage of the new bathroom structure. Per the submitted plans, an estimate of the fee is:

SF of Project 780

Department	Residential	
	Rate	Fee
Traffic	0.717	559.26
Fire	0.211	164.58
Police	0.372	290.16
Parks	0.445	347.10
Library	0.000	0.00
Schools	0.000	0.00
Total	1.745	\$ 1,361.10

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 property has a variety of commercial and office uses, primarily of which being the ferry use. The proposed restroom building is intended to be accessory to the ferry use.

Affirmative finding.

(b) Dimensional Standards & Density

No change to existing lot coverage or setbacks will result from the new restroom building. The building will locate on existing hard surface, and will actually have a greater waterfront setback than the existing structure's setback. The DW-PT zone has no lot coverage limitation. Lastly, the new one-story restroom building will be well under the 35' height limit. **Affirmative finding.**

(c) Permitted & Conditional Uses

See (d) 1 (B) 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.

(vi) Publicly Accessible Restrooms. Any structure larger than 1,000 sq. ft. in size, other than roads, parking lots, railroad tracks or recreation paths, shall include publicly accessible restrooms with appropriate exterior signs indicating their availability. The DRB may waive this provision if it so determines that adequate publicly accessible restrooms are available within close proximity.

The proposed restroom building will be publicly available to users of the property. **Affirmative finding.**

C. Other Regulations in Effect

Not applicable.

2. Public Trust Restrictions

The subject property is located within the area of the DW-PT: Maple to Main Street. The accessory restroom building is a permitted use; no change in use is proposed. **Affirmative finding.**

3. Facades and Setbacks on Side and Rear Property Lines
Not applicable.

4. Lake Champlain Waterfront Setbacks

(A) Additions to Existing Structures

Where a structure, existing as of the effective date hereof, encroaches into the required waterfront setback, no additions to or replacement of that structure may further encroach into the required setback beyond the footprint of the existing building. Above the ground floor, additions to or replacement of that structure may encroach into the required setback no farther than the maximum encroachment of the original structure.

While the replacement structure will be larger than the existing structure, it will be situated so that no further encroachment within the waterfront setback occurs. **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 new building will be constructed on piers that will allow floodwaters to pass. The finished floor elevation will be at 104' – two feet above the Special Flood Hazard Area. There should be little to no effect on flood heights or velocities. **Affirmative finding.**

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

The bathroom building will be properly anchored/secured to the ground, and thus will be in little danger of being swept away during times of flooding. **Affirmative finding.**

C. The proposed water supply and sanitation systems...

Minor changes to water and sewer systems will occur for the new bathroom building. **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 finished floor elevation of the bathroom building will be at 104' – two feet above the base flood elevation of 102', so the structure and contents within should be relatively safe from flood damage. **Affirmative finding.**

E. The importance of the services provided...

No new use is proposed. The ferry use will remain, which 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 use has existed in its location for many years and there are no plans to change that. **Affirmative finding.**

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

The ferry use 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 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. Since the new building will be constructed on piers, it 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 3, 4, 5, 6, and 8 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

Downcast light fixtures will be installed under the covered entrances to the restrooms. The applicant notes that the area is already well lit, but may install wall mounted fixtures on the south elevation to increase illumination along the handicap ramp. **Affirmative finding.**

Sec. 5.5.3, Stormwater and Erosion Control

While the new building will exceed a footprint of 400 sf, the only ground disturbance that will occur is for the pier installations, which will create significantly less ground disturbance (<400 sf). Therefore, an EPSC plan is not required. **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:

The site contains no significant natural areas as identified in the Open Space Protection Plan. While the site is along the Lake Champlain waterfront, it (and the rest of the downtown waterfront) is not included in the Riparian and Littoral Conservation Zone. **Affirmative finding.**

(b) Topographical Alterations:

The finished elevation of the new restroom structure will be at 104' above sea level – above the 102' base flood elevation. That said, the site is basically flat and will remain so. **Affirmative finding.**

(c) Protection of Important Public Views:

There are significant public views from the project site across the lake and towards the Adirondacks. The proposed restroom building, however, will not adversely impact these views. **Affirmative finding.**

(d) Protection of Important Cultural Resources:

The project site is located on fill soils. The site has no archaeological significance. **Affirmative finding.**

(e) Supporting the Use of Renewable Energy Resources:

No part of the application will preclude the use of wind, water, solar, geothermal or other renewable energy resource. **Affirmative finding.**

(f) Brownfield Sites:

The site is included on the Vermont DEC Hazardous Site List. Gasoline associated with an underground storage tank was the source of contamination. It appears that remediation activities have been completed. **Affirmative finding.**

(g) Provide for nature's events:

Special attention shall be accorded to stormwater runoff so that neighboring properties and/or the public stormwater drainage system are not adversely affected. All development and site

disturbance shall follow applicable city and state erosion and stormwater management guidelines in accordance with the requirements of Art 5, Sec 5.5.3.

The new restroom building will be placed on existing hard surface and will not disturb more than 400 sf of ground area (the minimum trigger where an EPSC plan is required).

Design features which address the effects of rain, snow, and ice at building entrances, and to provisions for snow and ice removal or storage from circulation areas shall also be incorporated.

The entrance to each restroom will be sheltered from inclement weather with the extended roofline. The site provides various snow storage areas that will not impede pedestrian or vehicular circulation. **Affirmative finding.**

(h) Building Location and Orientation:

The large property (257,332 sf in area) is developed with various buildings and the Lake Champlain Ferry docks. The proposed restroom building is set back a considerable distance from the nearest public street, so it will not negatively affect the streetscape. **Affirmative finding.**

(i) Vehicular Access:

No change to existing vehicular access is proposed. **Affirmative finding.**

(j) Pedestrian Access:

No changes to existing pedestrian access throughout the site are proposed. The new restroom building will have stair and ramp access. **Affirmative finding.**

(k) Accessibility for the Handicapped:

The building inspector has jurisdiction over ADA requirements. The plans include a handicap ramp to access the new building. **Affirmative finding.**

(l) Parking and Circulation:

The plans show stairs encroaching into two parking spaces. The applicant notes that those two parking spaces can be removed. Given that the property is in the Multimodal Mixed Use Parking District, loss of these two spaces is irrelevant since parking requirements have been removed. **Affirmative finding.**

(m) Landscaping and Fences

The plans do not include new landscaping or fencing. Given that the proposed structure is situated well within the developed site, landscaping won't be needed to enhance the property's appearance. **Affirmative finding.**

(n) Public Plazas and Open Space:

The site already offers open space in the form of lakefront walkways and green space. No changes are proposed. **Affirmative finding.**

(o) Outdoor Lighting:

Where exterior lighting is proposed the applicant shall meet the lighting performance standards as per Sec 5.5.2.

See Sec. 5.2.2 above. **Affirmative finding as conditioned.**

(p) Integrate infrastructure into the design:

Exterior storage areas, machinery and equipment installations, service and loading areas, utility meters and structures, mailboxes, and similar accessory structures shall utilize setbacks, plantings, enclosures and other mitigation or screening methods to minimize their auditory and visual impact on the public street and neighboring properties to the extent practicable.

Utility and service enclosures and screening shall be coordinated with the design of the principal building, and should be grouped in a service court away from public view. On-site utilities shall be placed underground whenever practicable. Trash and recycling bins and dumpsters shall be located, within preferably, or behind buildings, enclosed on all four (4) sides to prevent blowing trash, and screened from public view.

Any development involving the installation of machinery or equipment which emits heat, vapor, fumes, vibration, or noise shall minimize, insofar as practicable, any adverse impact on neighboring properties and the environment pursuant to the requirements of Article 5, Part 4 Performance Standards.

Utilities to the new structure (electric, water, sewer) will be placed underground. **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 new restroom building will be similar to several existing buildings on site, in terms of massing, height, and scale. **Affirmative finding.**

2. Roofs and Rooflines.

The restroom building will have a gable roof – similar to other rooflines on the property. **Affirmative finding.**

3. Building Openings

The new restroom structure will have windows along the north and south elevations that are high enough to allow natural light in, while providing privacy. Three doors are shown on the east elevation, two for men's/women's restroom access, and one for a maintenance closet. **Affirmative finding.**

(b) Protection of Important Architectural Resources:

See Sec. 6.2.2 (d) above.

(c) Protection of Important Public Views:

See Sec. 6.2.2 (c) above.

(d) Provide an active and inviting street edge:

Building facades shall be varied along the street edge by the integration of architectural features, building materials, or physical step-backs of the façade along its length. ..This may be accomplished by incorporating fenestration patterns, bays, horizontal and vertical façade

articulations, the rhythm of openings and prominent architectural features such as porches, patios, bays, articulated bases, stepping back an elevation relative to surrounding structures, and other street level details. The use of traditional façade components such as parapet caps, cornices, storefronts, awnings, canopies, transoms, kick plates, and recessed entries are highly encouraged. In areas where high volumes of pedestrian traffic are desired, the use of architectural recesses and articulations at the street level are particularly important in order to facilitate the flow of pedestrian traffic.

The proposed building is set relatively far back from the street, deep into the lot and behind several buildings. It has no street edge. **Affirmative finding.**

(e) Quality of materials:

All development shall maximize the use of highly durable building materials that extend the life cycle of the building, and reduce maintenance, waste, and environmental impacts. Such materials are particularly important in certain highly trafficked locations such as along major streets, sidewalks, loading areas, and driveways. Efforts to incorporate the use of recycled content materials and building materials and products that are extracted and/or manufactured within the region are highly encouraged.

Wood clapboard siding and metal standing seam roofing will be used. The access ramp will either be wood or metal, and the deck will be made of composite material. Specifics on the windows have not been provided, however since this is a new construction, any commercial grade window will be acceptable. Spec sheets for the windows and doors will need to be provided to staff for review and approval. **Affirmative finding as conditioned.**

(f) Reduce energy utilization:

All new construction is required to meet the Guidelines for Energy Conservation, Section 8 of the City of Burlington Code of Ordinances. **Affirmative finding as conditioned.**

(g) Make advertising features complementary to the site:

No signage is proposed. Not applicable.

(h) Integrate infrastructure into the building design:

See Section 6.2.2 (p), above.

(i) Make spaces secure and safe:

Spaces shall be designed to facilitate building evacuation, accessibility by fire, police or other emergency personnel and equipment, and, to the extent feasible, provide for adequate and secure visibility for persons using and observing such spaces. Building entrances/entry points shall be visible and adequately lit.

The restroom entrance is clearly visible and will be illuminated. The new construction shall conform to all building and life safety code as defined by the building inspector and the fire marshal. **Affirmative finding.**

Article 8: Parking

Table 8.1.8-1 Minimum Off-Street Parking Requirements

The property is located within the Multi-Modal Mixed Use Parking District. This recently created district removes minimum parking standards for all uses within. Therefore, the proposal triggers no additional parking requirement. **Affirmative finding.**

II. Conditions of Approval

1. **At least 7 days prior to the issuance of a certificate of occupancy**, the applicant shall pay to the City Treasurer’s Office or the Dept. of Permitting and Inspections impact fees as calculated by staff based on the net new square footage of the proposed development. As submitted, estimated impact fees are:

SF of Project 780

Department	<u>Residential</u>	
	Rate	Fee
Traffic	0.717	559.26
Fire	0.211	164.58
Police	0.372	290.16
Parks	0.445	347.10
Library	0.000	0.00
Schools	0.000	0.00
Total	1.745	\$ 1,361.10

2. **Prior to the release of the zoning permit**, window and door spec sheets shall be submitted to staff for review and approval.
3. New construction and/or substantial improvements to structures shall be reasonably safe from flooding and be:
 - i. Designed and adequately anchored to prevent flotation, collapse, or lateral movement during the occurrence of the base flood;
 - ii. Constructed of materials resistant to flood damage;
 - iii. Constructed by methods and practices that minimize flood damage; and
 - iv. 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;
4. All development shall be designed to minimize flood damage to the proposed development and to public facilities and utilities;
5. All development shall be designed to provide adequate surface drainage to reduce exposure to flood hazards;
6. All new construction and substantial improvements that have fully enclosed areas below the lowest floor shall:
 - i. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and,
 - ii. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings of two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings

or devices provided that they permit the automatic entry and exit of floodwaters;

7. All necessary permits shall be obtained from those governmental agencies from which approval is required by federal or state law.
8. All new construction and substantial improvements for nonresidential purposes shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation. Existing non-residential structures may be flood proofed where designed to be watertight to one foot or more above the base flood elevation, with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a proposed building to be flood proofed shall not be issued until a registered architect or engineer has reviewed the structural design, specifications and plans and has certified that the design and methods of construction are in accordance with meeting the provisions of this subsection.
9. New signage will require a separate sign permit.
10. The Applicant/Property Owner is responsible for obtaining all necessary state and federal permits.
11. 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.
12. Standard permit conditions 1-15.