

Department of Permitting & Inspections

Zoning Division
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TO: Development Review Board
FROM: Ryan Morrison, Associate Planner
DATE: March 3, 2021
RE: 21-0641CA; 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 / Spot on the Dock

Request: Renovation to an existing restaurant building to demo bathrooms to increase outdoor bar area within the existing footprint and add interior partitions to create new office and storage rooms; construct a new bathroom building with stairs and access ramp.

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 approval to renovate the existing restaurant building to demolish interior bathrooms to increase the outdoor bar area within the building's existing footprint and to construct new office and storage rooms. A new detached bathroom structure is also proposed in front of the restaurant, with access stairs and handicap ramp.

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. Comments received from the floodplain coordinator include confirmation that the finished floor elevation of the new bathroom structure will be sufficiently elevated, that any new electrical/mechanical equipment will need to be elevated at least 1 ft above the base flood elevation, and that additional information will be needed for the flood vents at the crawlspace level. The applicants have provided updated flood vent information to staff and to the floodplain manager, which are pending approval. Any additional requirements received by the floodplain manager within the 30-day comment period will be incorporated into this permit.

This application was heard by the Design Advisory Board on February 9, 2021. The DAB recommended approval of the application as presented to the Development Review Board, with the following recommendations:

1. The applicant control rainwater on the south side of the building; and
2. Design the bathrooms so that when the doors open, toilets are not visible.

As of the preparation of this report, the applicants have not yet provided this additional information, which they intend to do.

Previous zoning actions for this property:

- 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	545
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Department	Residential	
	Rate	Fee
Traffic	0.751	409.30
Fire	0.203	110.64
Police	0.358	195.11
Parks	0.428	233.26
Library	0.000	0.00
Schools	0.000	0.00
Total	1.740	\$ 948.31

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 restaurant use has been in existence for many years, and is consistent with the intent of the zoning district. The new bathroom structure will be accessory to the restaurant, and due to its detached location, it may possibly be utilized by non-restaurant patrons as well. The altered interior space and outdoor bar area expansion will not alter the existing use. **Affirmative finding.**

(b) Dimensional Standards & Density

No change to existing lot coverage or setbacks will result from the expanded bar area and interior alterations to the restaurant structure. The bathroom structure will be constructed on an existing concrete surface. Within the 257,322 sf property, the new walkway will amount to a very minor increase in lot coverage. The DW-PT zone has no lot coverage limitation. The new development will locate outside of the 50 ft lakeshore setback. Lastly, the new bathroom building will be 17.5’ in height, less than the 35’ 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:

(iii) Restaurants

Spot on the Dock restaurant is an existing, ongoing restaurant use on the property. No change to the use is proposed, and the detached bathroom structure is accessory to the restaurant.

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 restaurant 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

Not applicable. The new bathroom structure will be located outside the 50 ft lakeshore setback.

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 with a crawl space at the ground level and will contain four flood vents as required for any portion of a structure below the base flood elevation to allow for floodwaters to pass. The finished floor elevation will be at 104' – two feet above the Special Flood Hazard Area. With flood vents at the crawlspace level, 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 restaurant use will remain. As noted above, the restaurant 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 restaurant 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...

As previously noted, the restaurant 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 restaurant 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. With flood vents at the crawlspace level, the new bathroom building 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

The elevation plans show two wall-mounted light fixtures on the north wall of the new bathroom building that will provide illumination for pedestrian access. Recessed light fixtures will be installed into the ceiling for the expanded outdoor bar area. Spec sheets have been provided and they are compliant with the requirements of this section. **Affirmative finding.**

Sec. 5.5.3, Stormwater and Erosion Control

The proposed development exceeds 400 sf of ground disturbance and, therefore, requires an approved Erosion Prevention and Sediment Control plan, as well as a stormwater plan. Prior to the release of the zoning permit, those plans will have to be submitted to the Stormwater Program Manager for review and approval. **Affirmative finding as conditioned.**

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 replacement of the restroom building in front of the existing restaurant 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.

While the new restroom building will be placed on existing hard surface, the applicant will be required to submit an Erosion Prevention and Sediment Control plan and a stormwater plan to the Stormwater Program Manager for review and approval.

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 expanded, open-air outdoor bar area will be sheltered from inclement weather. The restroom building will have a covered entrance as well. 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. Placed in front of the primary restaurant structure, and just to the side of the restaurant's front door, it should not detract from an identifiable pedestrian entrance, even considering one has to be well into the property to see this entrance. **Affirmative finding.**

(i) Vehicular Access:

No change to existing vehicular access is proposed. With the exception of ferry traffic, public vehicular circulation within the property is setback significantly from the new development. **Affirmative finding.**

(j) Pedestrian Access:

No changes to existing pedestrian access to the restaurant are proposed. A new walkway on the east side of the restroom building, between the existing front walkway to the restaurant and the existing walkway along the south side of the restaurant building, will be constructed. 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 restroom building. **Affirmative finding.**

(l) Parking and Circulation:

No changes to the existing parking and circulation are proposed, nor needed. **Affirmative finding.**

(m) Landscaping and Fences

The proposal includes planting three shrubs in the existing yard space in front of the new restroom building (east). A new stockade fence will be constructed along a portion of the new path in front of the restroom building, to prevent pedestrians from accessing a small area between buildings.

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.

The elevation plans show two wall-mounted light fixtures on the north wall of the new restroom building that will provide illumination for pedestrian access. Recessed light fixtures will be installed into the ceiling for the outdoor bar area. **Affirmative finding.**

(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.

The plans indicate electrical service at the rear of the new restroom building, out of view from pedestrian walkways. No other new utilities or above ground infrastructure is proposed. If so, the plans will need to be revised to show locations and specs. **Affirmative finding as conditioned.**

Part 3: Architectural Design Standards

Sec. 6.3.2 Review Standards

(a) Relate development to its environment:

1. Massing, Height and Scale:

While the new restroom building will be located foremost as part of the restaurant use, the applicant has made an effort to ease any monotony that may be created. The elevation plans show the new restroom building at a height taller than the existing restaurant building. However, the front façade (east), will be broken up with two different siding types, a new sign for Spot on the Dock (which requires a separate sign permit), and windows, all in an effort to provide relief from

what could be a monotonous façade. Given that this development is located deep within a highly developed property, impacts to nearby public streets and other development will be negligible.

Affirmative finding.

2. Roofs and Rooflines.

The roofline over the existing restaurant bathrooms will remain unchanged after that area is converted to additional outdoor bar area. The new restroom structure will have two inward sloped roofs – one over the men’s restroom and one over the women’s restrooms. Given existing development on the property, this roof type will not create an anomaly. **Affirmative finding.**

3. Building Openings

The new restroom structure will have three windows on both ends (west and east façades), and a covered pedestrian entrance on the north side. Since this is a restroom, having many openings is undesirable. However, in an effort to create a more attractive front wall (east façade), the applicant proposes the windows, a new sign, and two different types of siding. Aside from the three windows on both ends and the pedestrian access, no other openings are proposed. **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. It has no street edge. The restroom building does provide a city-facing eastern façade which, as noted above, provides various aspects that present a more attractive front. **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.

The proposal calls for wood clapboard siding on the majority of the restroom building, with vertical corrugated metal siding on the higher portions. The access ramp will be concrete. Specifics on the windows have not been provided, however, since this is a new construction, any commercial grade windows will more than likely be acceptable. Spec sheets for the windows and doors will need to be provided to staff for review and approval. **Affirmative finding.**

(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:

The elevation plans show a wall sign on the front of the bathroom building. New signage must be reviewed and approved under a separate sign permit. **Affirmative finding as conditioned.**

(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 545

Department	Residential	
	Rate	Fee
Traffic	0.751	409.30
Fire	0.203	110.64
Police	0.358	195.11
Parks	0.428	233.26
Library	0.000	0.00
Schools	0.000	0.00

Total	1.740	\$ 948.31
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2. **Prior to the release of the zoning permit, if applicable**, all exterior mechanical units and utility connections shall be identified on revised plans and screening shall be provided – for staff review and approval.
3. **Prior to the release of the zoning permit**, window and door spec sheets shall be submitted to staff for review and approval.
4. **Prior to the release of the zoning permit**, an Erosion Prevention and Sediment Control plan, including a stormwater plan, shall be submitted to the Stormwater Program Manager for review and approval.
5. **Prior to the release of the zoning permit**, the flood vents as proposed shall receive approval from the State Floodplain Coordinator.
6. 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;
7. All development shall be designed to minimize flood damage to the proposed development and to public facilities and utilities;
8. All development shall be designed to provide adequate surface drainage to reduce exposure to flood hazards;
9. 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;
10. All necessary permits shall be obtained from those governmental agencies from which approval is required by federal or state law.
11. 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.

12. New signage will require a separate sign permit.
13. The Applicant/Property Owner is responsible for obtaining all necessary state and federal permits.
14. 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.
15. Standard permit conditions 1-15.