

WILLISTON DEVELOPMENT REVIEW BOARD STAFF REPORT

DP 25-03	Discretionary Permit	378 Commerce Street Outdoor Storage
PERMIT NUMBER	REVIEW PHASE	PROJECT NAME
378 Commerce Street	07:019:037.000	LNP, Inc.
PROPERTY ADDRESS	PARCEL ID NUMBER	PROPERTY OWNER
November 26, 2024	Same	O'Leary-Burke Civil Associates
HEARING DATE	APPLICANT	REPRESENTATIVE

BRIEF SUMMARY OF REQUEST

The following is a request for a site plan amendment at 378 Commerce Street to establish an outdoor storage area.

There is a history of nonconforming outdoor storage in this part of town, as shown in the picture to the right.



3.68 Acres	Industrial	No Change	Town Road(s)
PROPERTY SIZE	CURRENT USE	PROPOSED USE	ACCESS
Industrial West	No	No	N/A
ZONING DISTRICT	DESIGN REVIEW	CONSERVATION REVIEW	ADVISORY BOARDS

APPLICABLE BYLAW CHAPTERS:

- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> 2. Nonconforming Lots, Uses, and Structures | <input type="checkbox"/> 16. Maintenance | <input type="checkbox"/> 24. Outdoor Lighting |
| <input type="checkbox"/> 4. Permit Exemptions | <input type="checkbox"/> 17. Non-Residential Accessory Uses and Structures | <input type="checkbox"/> 25. Signs and Public Art |
| <input type="checkbox"/> 10. Boundary Adjustments | <input type="checkbox"/> 18. Compatibility, Potential Hazards, and Nuisances | <input type="checkbox"/> 26. Street Trees |
| <input type="checkbox"/> 11. Growth Management | <input type="checkbox"/> 19. Density, Transfer of Development Rights | <input type="checkbox"/> 27. Conservation Areas |
| <input type="checkbox"/> 12. Subdivisions and Final Plans | <input type="checkbox"/> 20. Residential Improvements | <input type="checkbox"/> 28. Special Flood Hazard Areas |
| <input checked="" type="checkbox"/> 13. Access, Connectivity, Traffic Studies | <input type="checkbox"/> 21. Telecommunication Facilities | <input type="checkbox"/> 29. Watershed Health |
| <input checked="" type="checkbox"/> 14. Off-Street Parking and Loading | <input type="checkbox"/> 22. Design Review | <input checked="" type="checkbox"/> 31-42. Zoning District |
| <input type="checkbox"/> 15. On-Site Infrastructure | <input checked="" type="checkbox"/> 23. Landscaping | <input type="checkbox"/> 43-45. Impact Fees |

Chapters 1, 3, 5-9, 30, 46 and Appendices are not usually discussed in DRB staff reports.

RECOMMENDED ACTION

Take Testimony & Close

Tonight

Approve

HEARING¹

DELIBERATE²

DECISION³

Procedural notes: ¹When continuing, the DRB must specify reason or request additional information and announce a date certain. ²The DRB cannot deliberate or decide until a hearing has been closed. ³The DRB has 45 days to issue a decision after closing a hearing.

Staff recommends the DRB take testimony, close the hearing, and approve the application. The DRB should discuss outdoor storage and bike parking with the applicant and edit conditions 21-23 accordingly.

- ATTACHMENTS**
- | | | |
|---|-------------------------------------|---|
| <input type="checkbox"/> Narrative Letter | <input type="checkbox"/> Photos | <input type="checkbox"/> Public Testimony |
| <input type="checkbox"/> Site Plan(s) | <input type="checkbox"/> Elevations | <input type="checkbox"/> Other (specify): |

PROJECT HISTORY

This is the first time the DRB has reviewed this request. Prior approvals include:

April 27, 2007	SP 07-12	Approval for 30,800 SF industrial building
DATE OF APPROVAL	PERMIT NUMBER	DESCRIPTION
November 8, 2005	SP 05-13	Approval for 33,600 SF indoor soccer facility
DATE OF APPROVAL	PERMIT NUMBER	DESCRIPTION
October 26, 1987	SP 88-102	Approval for 12,000 SF building at 378 Commerce Street
DATE OF APPROVAL	PERMIT NUMBER	DESCRIPTION

ADVISORY BOARDS

Checked boxes indicate that a finding, conclusion, or condition must be drafted by the DRB

<input type="checkbox"/> CONSERVATION COMMISSION (WCC)	N/A	N/A
NAME	TRANSMITTAL DATE	CONDITION
<input type="checkbox"/> HISTORIC AND DESIGN ADVISORY COMMITTEE (HDAC)	N/A	N/A
TRANSMITTAL DATE	TRANSMITTAL DATE	CONDITION

INTERDEPARTMENTAL REVIEW

Checked boxes indicate that a finding, conclusion, or condition must be drafted by the DRB

<input type="checkbox"/> PUBLIC WORKS	November 5, 2024	N/A
DEPARTMENT	MEMO DATE	CONDITION
<input type="checkbox"/> FIRE	November 5, 2024	Included, with limitations
DEPARTMENT	MEMO DATE	CONDITION

NOTES:

The Fire Department Plan Review Standards are a Selectboard Policy not an ordinance and therefore have no adopted basis for enforcement. The DRB can only enforce the standards of the bylaw; any additional or conflicting request of the Fire Department is not enforceable.

PUBLIC COMMENT

No comment letters were received at the time of mail out (November 21, 2024).

PROJECT ELEMENTS

Checked boxes indicate that a finding, conclusion, or condition must be drafted by the DRB.

<input type="checkbox"/>	Vested Rights, Nonconforming Lots, Uses, Structures	N/A
	WDB 2	DECISION

There are several nonconformities on the parcel as follows:

- Outdoor storage/parking within front setback along east property line
- Outdoor storage within setback along north and east property lines
- Outdoor storage in undesignated areas throughout the site
- No bike parking as proposed in SP 07-12

The DRB has the power to correct nonconformities where they are reasonably proportionate to the scale of the development. These nonconformities are referenced throughout this report. The DRB should discuss the nonconformity with the applicant and discuss solutions that are proportional to the proposed development.

BYLAW EXCERPT:

***2.8 Correction of Nonconformities.** The DRB may require that nonconformities be corrected as a condition of approval of a discretionary permit for additional development on the same lot or on adjacent lots in the same ownership. This power is limited to requiring work that is reasonably proportional to the scale of the proposed development.*

<input checked="" type="checkbox"/>	Industrial Zoning District West	Specific – See Conditions 21 and 22
	WDB 36	DECISION

General Contractor	236115	Yes	No change
PROPOSED USE	NAICS CODE	ALLOWED	NOTES

Dimensional Standards

Complies. The proposed outdoor storage area is designated outside the 9’ Type III Landscape buffer proposed along the northern property line.

Outdoor Sales and Storage

Compliance anticipated. Outdoor storage is only permitted in side or rear yards and where it is specifically designated on an approved site plan. The plans submitted by the applicant show existing outdoor storage in setbacks along the north and west property boundaries and the front yard in two areas: on the south side of the entrance to 378 Commerce Street and between 378 Commerce Street and the road. The gravel area west of 378 Commerce street has a long history of use as outdoor storage as seen on historic aerial imagery. Site plans should show all areas that will be used for outdoor storage. **The DRB should discuss the location of outdoor storage onsite with the applicant, then decide how to prevent outdoor storage in the front yard setback, see below.**



SP 07-12 proposed a narrower (24') access and landscaping in the area now used for parking and storage. Landscaping is unlikely to survive in this location given current conditions. Staff recommends that landscaping or a line of boulders is installed in this area to prevent future parking/storage use. Approximate boulder location shown with a red line below.



Staff propose that the applicant take two actions to correct the nonconforming outdoor storage on the site:

1. Designate all areas that will be used as outdoor storage in the side or rear yards for both 378 & 430 Commerce Street
2. Reseed the area previously used as storage then install landscaping or a physical barrier such as a line of boulders along the southern side of the entrance shown above.

The DRB should discuss the measures proposed above by staff and update Condition 21 and 22 accordingly.

<input type="checkbox"/> Access, Connectivity, Traffic Studies	Standard
WDB 13	DECISION
<p>Complies. The parcel has access on Commerce Street, a local road. The driveways comply with the requirements of WDB 13.2.3 on alignment, grade, sight distance and clearance.</p>	
<input checked="" type="checkbox"/> Off-Street Parking and Loading	Specific – See Condition 23
WDB 14	
<p>Vehicular Parking</p>	
<p>Complies. WDB Table 14.A establishes the maximum number of off-street parking spaces with a minimum requirement for 80% of the maximum. Table 14.A states that industrial uses are very diverse with the requirement set by the DRB / Administrator using 1 per 1,000SF as a starting point.</p>	
<p>The existing parking lot to the south of 430 Commerce Street has 43 parking spaces including 2 ADA spaces. This is sufficient to serve both 378 and 430 Commerce Street.</p>	

Bicycle Parking and End-of-Trip Facilities

Compliance Anticipated. There is no existing outdoor or indoor bike parking for 378 and 430 Commerce Street, and there is no end of trip facility. **The DRB should decide if the applicant shall provide the minimum of 4 outdoor bike parking spaces at 430 Commerce Street. See Condition 23.**

Vehicle and Bicycle Parking Analysis per WDB 14.A							
Use	Amount in SF, students, rooms, seats, or dwelling units	Rate of Off-Street Vehicle Spaces	Required Vehicular Parking Spaces	Required ADA Accessible Spaces	Outdoor Bicycle Spaces	Long Term Bicycle Spaces	End of Trip Facilities (showers)
Industrial	36,800 SF	1.00/1000SF as a starting point	37	*Based on total required spaces for the site as follows: 1-25 = 1 26-50 = 2 51-75 = 3 76-100 = 4 101-150 = 5 151-200 = 6 200+ = see WDB 14.3	5% of vehicular; min 4	75% of required spaces	*Based on total required long-term bicycle spaces for the site as follows: 1-3 = 1 4-17 = 2 18-30 = 4 30+ = 6
Total Required: all uses			37	2	4	3	1
Total proposed by Applicant			43	2	0	0	0
Compliance?			Yes	Yes	See discussion	Existing non-conformity	Existing non-conformity

Maintenance Specific – See Condition #24
 WDB 16 DECISION
Compliance anticipated. WDB 16 requires that snow storage and solid waste containers are shown on applications for a discretionary permit. **Final Plans shall identify snow storage areas, show the location of solid waste containers, and how solid waste containers are screened from public view. See Condition #24.**

Landscaping Standard
 WDB 23 DECISION
Complies. The applicant is proposing plantings to create a 100’ long, 9’ wide Type III buffer along the northern property line to screen the proposed outdoor storage area from the adjacent property. The screening will supplement the existing vegetation along the property line. No additional screening is proposed on the western property line. Due to the location of the existing stormwater pond, improving the landscape buffer on this side of the property would not be proportional with the development proposed.

DECISION AND MOTION

FINDINGS OF FACT

1. The applicant is not proposing a change to the general contractor use on the subject property. WDB Chapter 36 lists NAICS Code 236115 as an allowed use in the Industrial West Zoning District.
2. The applicant proposes to establish additional outdoor storage areas on the site.
3. The following nonconformities exist on the site: outdoor storage/parking within front setback along east property line, outdoor storage within setback along north and west property lines, outdoor storage in undesignated areas throughout the site, no bike parking as required by SP 07-12.

CONCLUSIONS OF LAW

1. The use(s) proposed as part of this discretionary permit are allowable uses in the Industrial West Zoning District.
2. The proposed development is correcting existing nonconformities proportionate to the proposed development to reach greater compliance with the development standards of WDB Chapter 36 for the Industrial West Zoning District and all other applicable sections of the WDB if the proposed development meets the conditions of approval listed below.

CONDITIONS OF APPROVAL

1. The applicant shall file final plans for approval and signature by the DRB or Administrator as delegated within one year from the date of the notice of determination of the decision of the DRB, or this approval shall be considered null and void as required by WDB 6.9.1. Final plans must address all of these conditions of approval and must include all items required by the Final Plans Checklist.
2. Final plans shall be in conformance with all of the WDB requirements and standards, and conditions of approval as required by the DRB. The final plans shall also address all comments and requirements identified in the following items to the extent that they can be enforced by the WDB:
 - a. Williston Fire Department Memo dated November 5, 2024 and a written response to the department outlining the changes that were made in response to their comments.
3. Any other required legal documents, such as easement agreements, shared parking agreements, offers of dedication of land, or warrantee deeds shall be submitted to the town staff and shall be subject to the approval of the town's attorney prior to the signing of final plans.
4. The applicants shall enter into a development agreement with the town guaranteeing any required public or private improvements. The applicant shall post any required letters of credit or escrow amounts to guarantee the completion of these improvements in accordance with town standards and the conditions of approval prior to the approval of final plans for the proposed development, as specified by WDB 7.1.
5. All development approved by this decision shall conform to the final plans unless authorized by the DRB as described in WDB 6.10.
6. Any exterior lighting shall utilize full cut off fixtures and shall be in compliance with the lighting level requirements of WDB Chapter 24.

7. Any landscaping, including street trees, shall be in compliance with the standards of WDB Chapters 23 and 26, and the Williston Public Works Standard Specifications, and these landscaping details shall be included in the landscaping plan submitted as part of final plans.
8. Any required vehicular and bicycle parking shall be provided as required by WDB Chapter 14 and indicated on the site plan approved by the DRB. A parking table describing the number of parking spaces, including both vehicular and bicycle parking, and the calculation of how the proposed parking meets the requirements of WDB Chapter 14 shall be included on the site plan submitted for Final Plans.
9. Following the signing of final plans, the applicants shall first obtain an administrative permit(s) prior to starting any work proposed as part of this project.
10. In accordance with WDB 6.7.4, discretionary permits approved for non-residential development shall have one year from the date the final plans are signed to obtain administrative permits in accordance with the provisions of WDB Chapter 5, or the discretionary permit approval shall expire.
11. Prior to obtaining any administrative permits associated with this development proposal, the applicant shall provide full payment of any required impact fees as specified under WDB Chapter 45.
12. Prior to obtaining any administrative permits for this development proposal, the applicant shall obtain any necessary sewer allocation for the proposed development and shall provide documentation of allocation with their permit application.
13. The applicant shall obtain any and all required permits and authorizations as required by either the State of Vermont or the U.S. Army Corps of Engineers prior to commencing any work in association with this project as specified by WDB 1.3.1, and shall provide documentation of any applicable state or federal permits.
14. Any signage proposed for this proposed development, including prospective future tenant(s), shall be in conformance with the size, location, and lighting requirements of an approved master sign plan as required by WDB Chapter 25. The master sign plan shall include a table indicating the size, location and sign type of all proposed signage as approved by the DRB.
15. Any mechanical equipment and utility connections including but not limited to HVAC, water, gas, antennae, and electrical meters and connections shall be fully screened from public view, unless otherwise authorized by the DRB, as required by WDB 18.12.
16. There shall be no mowing or application of lawn chemicals including fertilizers, herbicides and pesticides, or storage of materials within any watershed protection buffers as specified under WDB 29.9.5.
17. Any public improvements required by the approval of this proposed development (including, but not limited to roads, sidewalks, water & sewer connections) must be built in accordance with the Town's specifications as specified by WDB 7.1.3.
18. This approval incorporates by reference all application forms and checklists, the plans and drawings presented by the applicant, and all verbal representations made by the applicant at the Development Review Board meetings and hearings regarding the subject application to the extent that they are not in conflict with other conditions or regulations WDB 1.3.4.
19. No occupancy or use of any proposed buildings shall take place until a certificate of compliance has been issued signifying that all conditions of any required permits from the Town have been satisfied. Verification that the

Williston Fire and Public Works Departments' requirements have been satisfied shall also be required prior to the issuance of a certificate of compliance.

20. This decision runs with the land and is binding on any future owners, heirs, or assigns of the subject property.
21. Final Plans shall designate all areas used as outdoor storage and vehicle parking. All other paved or gravel areas will be considered circulation areas that may not be used for storage or parking.
22. Final Plans shall show that the applicant will reseed the existing storage area in the front yard setback south of the access to Commerce Street. Final Plans shall also show a **line of boulders** that will prevent this area from being used as parking or outdoor storage in the future.
23. The applicant **shall/shall not** provide four (4) outdoor bike parking spaces at 430 Commerce Street.
24. Final Plans shall identify snow storage areas, the location of solid waste containers, and demonstrate how those containers are screened from the public ROW and adjacent properties.

MOTION

As authorized by WDB 6.6.3, I _____, move that the Williston Development Review Board, having reviewed the application submitted and all accompanying materials, including the recommendations of the town's staff and the advisory boards required to comment on this application by the Williston Development Bylaw, and having heard and duly considered the testimony presented at the public hearing of November 26, 2024, accept the Findings of Fact and Conclusions of Law for DP 25-03 and approve this Discretionary Permit subject to the Conditions of Approval above.

This approval authorizes the applicant to file final plans, obtain approval of these plans from staff, and then seek an Administrative Permit for the proposed development, which must proceed in strict conformance with the plans on which this approval is based.

Re: Request for Comments // DP 25-03

From Christine Dougherty <cdougherty@willistonvt.org>

Date Tue 11/5/2024 3:11 PM

To Hanna Hartman <hhartman@willistonvt.org>

Cc Emily Heymann <EHeymann@willistonvt.org>; Bruce Hoar <bhoar@willistonvt.org>

Hana,

DPW has no comments in response to the proposed amendment to add a fenced in storage area.

Thanks,

Christine Dougherty

Assistant Director of Public Works

Town of Williston

7900 Williston Road

Williston, VT 05495

cdougherty@willistonvt.org

802-878-1239 x199 (Direct)

802-233-8455 (Cell)

Notice - Under Vermont's Public Records Act, all e-mail, e-mail attachments as well as paper copies of documents received or prepared for use in matters concerning Town business, concerning a Town official or staff, or containing information relating to town business are likely to be regarded as public records which may be inspected by any person upon request, unless otherwise made confidential by law.

From: Hanna Hartman <hhartman@willistonvt.org>

Sent: Tuesday, October 22, 2024 3:59 PM

To: Bruce Hoar <bhoar@willistonvt.org>; Christine Dougherty <cdougherty@willistonvt.org>; Timothy Gerry <tgerry@willistonfire.com>; Eric Shepard <eshepard@willistonpdvt.org>; Ryan Prouty <rprouty@willistonfire.com>; Patrick Foley <pfoley@willistonpdvt.org>

Cc: Matthew Boulanger <mboulanger@willistonvt.org>; Emily Heymann <EHeymann@willistonvt.org>; Melinda Scott <msscott@willistonvt.org>; Andrew Plumb <APlumb@willistonvt.org>

Subject: Request for Comments // DP 25-03

Greetings PW, Fire, and Police Departments,

As specified under Section [6.5.1.3](#) of the Williston Unified Development Bylaw, we are requesting that you provide any comments you might have pertaining to this request for consideration by the town's Development Review Board (DRB). We are providing you with a digital set of plans as submitted by the applicant for review by your department (DPW, PD, a physical plan set is forthcoming). The request referenced below has been scheduled for a public hearing. Any written comments you wish the

DRB to consider at that hearing should be submitted to the Planning Office and the project contact by the date listed below.

DP 25-03 LNP Inc c/o O'Leary-Burke Civil Associates requests discretionary permit review to amend final plans SP-07-12 with an outdoor storage area at 378 Commerce Street in the Industrial West Zoning District (IZDW).

Should you have any questions about the project or have not received the necessary information or fees, please contact the applicant's representative, Bryan Currier, at bcurrier@olearyburke.com.

Comments by: Tuesday, November 12, 2024
DRB Hearing Date: Tuesday, November 26, 2024

Should you have any questions, you can reach us at 878-6704, or extensions: Matt at x119, Emily at x183, Melinda at x130, Andrew at x120, Hanna at x121.

Best,
Hanna

Hanna Hartman (she/her)
Planning Technician
Town of Williston, VT

(802) 878-6704 x1
7900 Williston Road
Williston, Vermont 05495

MEMO

To: DRB Staff
From: Ryan Prouty, Lieutenant
Date: November 5, 2024
Re: DP 25-03 Commerce Street

The Fire Department has completed review of the above referenced project and at this time offers the following;

Access	Ensure with Williston Fire that all keys work that are currently located in the lock box.
Signage	Gas and Sprinkler Signs mounted on the exterior of the building. NFPA 704 Identification System Plaque affixed to the building.
Building Identification	State Fire Prevention Code, and local Williston ordinance, cite that all buildings have their assigned street address numbers placed in a position to be plainly visible from the street or road fronting the property. Numbers shall contrast with their background and be reflective.

I encourage the applicant to access this Standard so that these needs can be addressed. I also encourage the applicant to meet with the Fire Department in order to ensure that all requirements within the Standard are met.

Thank you for including the Fire Department in the review process.

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