

**PLANNING DIVISION REPORT
DEPARTMENT OF PLANNING AND COMMUNITY
AND ECONOMIC DEVELOPMENT
of March 14, 2007**

RE: I.D. # 05922, Conditional Use Application – 620 University Avenue

1. Requested Action: Approval of a conditional use for an outdoor seating area to serve a restaurant/bar/ entertainment complex located at 620 University Avenue.
2. Applicable Regulations: Section 28.09 (3)(d) identifies outdoor eating areas as conditional uses in C2 zoning. Section 28.12 (11) provides the guidelines and regulations for the approval of conditional uses.
3. Report Prepared By: Timothy M. Parks, Planner

GENERAL INFORMATION

1. Applicant & Property Owner: John Okonek, Johnny O's; 620 University Avenue; Madison.
2. Development Schedule: The applicant wishes to proceed as soon as all necessary approvals have been granted.
3. Location: An approximately 12,000 square-foot parcel generally located approximately 150 feet east of Lake Street on the north side of University Avenue (adjacent to Hawthorne Court); Aldermanic District 8; Madison Metropolitan School District.
4. Existing Conditions: A one-story, approximately 11,790 square-foot restaurant/ bar complex, zoned C2 (General Commercial District).
5. Proposed Land Use: The applicant wishes to add a rooftop terrace to the restaurant/ bar/ entertainment complex.
6. Surrounding Land Use and Zoning:
North: Lake-Frances Street Parking Ramp;

South: Fluno Center, zoned PUD-SIP;

East: Hawthorne Court; Yon's Soupcon Restuarant, Karaoke Kid (bar), Hair Forum, Wando's (bar), zoned C2 (General Commercial District);

West: Church Key Bar, zoned C2; Associated Bank/ apartment building, zoned PUD-SIP.

7. **Adopted Land Use Plan:** The Comprehensive Plan identifies the subject site and other properties along the north side of University Avenue in this block in the "State Street district," which encourages mixed-use buildings containing a mix of office, service, dining, entertainment, etc. uses on the first floor and residential uses on upper floors.
8. **Environmental Corridor Status:** The subject site is not located in a mapped environmental corridor.
9. **Public Utilities & Services:** The property is served by a full range of urban services.

STANDARDS FOR REVIEW

This application is subject to the conditional use standards of Section 28.12 (11).

ANALYSIS, EVALUATION & CONCLUSION

The applicant is requesting conditional use approval to allow a rooftop terrace (outdoor seating area) to be constructed on the roof of the one-story Johnny O's/ Madison Avenue restaurant/bar/entertainment complex located at 620 University Avenue. The proposed rooftop terrace will be located in the southeast corner of the 11,790 square-foot building adjacent to University Avenue. The terrace area will consist of a covered service/ bar area with an adjacent enclosed cooler unit, a gazebo structure and various tables, with an anticipated occupancy of approximately 90 people. Stairwells at the north and southern ends of the roof are provided for access, with the primary access intended to be from the southern stair closest to University Avenue. Minor modifications to the first floor to accommodate the southern stairwell are also shown on the attached plans.

The Planning Division does not object to the establishment of a rooftop terrace for the restaurant/bar/entertainment complex, which already features a small patio area next to its entrance from University Avenue. The area surrounding the site reflects a variety of uses, including the Fluno Center to the south, the Lake-Frances Street Parking Ramp to the north, and a series of commercial uses to the immediate east, including two other bars. Immediately west of the site is the Church Key Bar and to the west of that a mixed-use building that includes three floors of apartments. However, staff recommends that no outdoor amplified sound be permitted for the proposed rooftop terrace. While it is not uncommon for there to be above average amounts of ambient noise in the area at different times, staff does not feel that outdoor amplified sound would be appropriate at this location due to the proximity of both existing and proposed residential uses west of the site at the corner of University Avenue and Lake Street and in the Fluno Center. It may also be appropriate for the Plan Commission to consider limitations on the hours of operation for the rooftop terrace following input during the public hearing.

Staff believes that the proposed use should be able to meet the conditional use standards but in order to ensure that the standards are met, additional conditions of approval may be appropriate.

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RECOMMENDATION

The Planning Division recommends that the Plan Commission find the conditional use standards are met for a proposed rooftop terrace outdoor eating area to serve an existing restaurant/bar/entertainment complex located at 620 University Avenue, subject to input at the public hearing and the following conditions:

1. Comments from reviewing agencies.
2. That no outdoor amplified sound be permitted for the proposed rooftop terrace.



Department of Public Works
City Engineering Division

608 266 4751

Larry D. Nelson, P.E.
City Engineer

City-County Building, Room 115
210 Martin Luther King, Jr. Boulevard
Madison, Wisconsin 53703
608 264 9275 FAX
608 267 8677 TDD

Deputy City Engineer
Robert F. Phillips, P.E.

Principal Engineers
Michael R. Dalley, P.E.
Christina M. Bachmann, P.E.
John S. Fahrney, P.E.
David L. Benzschawel, P.E.
Gregory T. Fries, P.E.

Operations Supervisor
Kathleen M. Cryan

Hydrogeologist
Joseph L. DeMorett, P.G.

GIS Manager
David A. Davis, R.L.S.

DATE: February 26, 2007
TO: Plan Commission
FROM: Larry D. Nelson, P.E., City Engineer
SUBJECT: 620 University Avenue Conditional Use

The City Engineering Division has reviewed the subject development and has the following comments.

MAJOR OR NON-STANDARD REVIEW COMMENTS (Comments which are special to the project and/or may require additional work beyond a standard, more routine project.)

- | |
|--------|
| 1. N/A |
|--------|

GENERAL OR STANDARD REVIEW COMMENTS

In addition, we offer the following General or Standard Review Comments: NONE

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Traffic Engineering and Parking Divisions

David C. Dryer, P.E., City Traffic Engineer and Parking Manager

Suite 100
215 Martin Luther King, Jr. Boulevard
P.O. Box 2986
Madison, Wisconsin 53701-2986
PH 608 266 4761
TTY 866-704-2315
FAX 608 267 1158

March 8, 2007

TO: Plan Commission

FROM: David C. Dryer, P.E., City Traffic Engineer and Parking Manager

SUBJECT: **620 University Avenue – Conditional Use – Rooftop Terrace For Restaurant & Bar Use**

The City Traffic Engineering Division has reviewed the subject development and has the following comments.

MAJOR OR NON-STANDARD REVIEW COMMENTS (Comments which are special to the project and/or may require additional work beyond a standard, more routine project.)

1. None

PEDESTRIAN AND BICYCLE TRANSPORTATION REVIEW COMMENTS

2. None

GENERAL OR STANDARD REVIEW COMMENTS

In addition, we offer the following General or Standard Review Comments:

3. None

Please contact John Leach, City Traffic Engineering at 267-8755 if you have questions regarding the above items:

Contact Person: Jon Okonek
Fax: 257-1560
Email: johnnyos@tds.net

DCD: DJM: dm

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CITY OF MADISON FIRE DEPARTMENT

Fire Prevention Division

325 W. Johnson St., Madison, WI 53703-2295

Phone: 608-266-4484 ♦ FAX: 608-267-1153

DATE: 3-14-07
TO: Plan Commission
FROM: Edwin J. Ruckriegel, Fire Marshal
SUBJECT: **620 University Ave**

The City of Madison Fire Department (MFD) has reviewed the subject development and has the following comments:

MAJOR OR NON-STANDARD REVIEW COMMENTS (Comments which are special to the project and/or may require additional work beyond a standard, more routine project.)

1. Per the IFC chapter 10 and MGO34:
 - a. Applicant shall submit approved capacity with the site plan and post the capacity of the outside dining area in accordance International Fire Code 2006 edition.
 - b. Proposed deck, patio or fenced in area shall not be located at, adjacent or obstruct the required exits from the building.
 - c. Provide and maintain exits from the deck, patio or fenced in area in accordance with the International Fire Code 2006 edition.
 - d. Submit a seating plan for the proposed deck, patio or fenced in area space.
 - e. Information shall be provided as to the impact this addition and added capacity will affect the capacity of the whole building and the exiting thought the building.
 - f. The Madison Fire Department does not support and recommends against balconies or rooftop drinking attached to bars or student residential dwelling units due to public and student safety concerns
 - g. The proposed use shall be considered a change in use as specified in the IFC and State Building Code. The Change will require Automatic fire sprinkler though out building.

GENERAL OR STANDARD REVIEW COMMENTS

In addition, we offer the following General or Standard Review Comments: NONE

Please contact Scott Strassburg, MFD, at 608-261-9843, if you have questions regarding the above items.

cc: Scott Strassburg

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**CITY OF MADISON
INTERDEPARTMENTAL
CORRESPONDENCE**

Date: February 26, 2007

To: Plan Commission

From: Kathy Voeck, Assistant Zoning Administrator

Subject: 620 University Ave.

Present Zoning District: C-2

Proposed Use: Rooftop Terrace for Johnny O's Bar

Conditional Use: 28.09(3)(d)32 Outdoor eating areas are a conditional use.

MAJOR OR NON-STANDARD REVIEW COMMENTS (Comments which are special to the project and/or may require additional work beyond a standard, more routine project). **NONE.**

GENERAL OR STANDARD REVIEW COMMENTS

1. Obtain a rear yard variance for the stairway enclosure in the rear of the building.

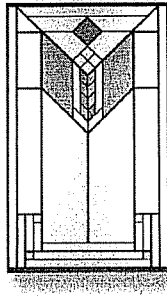
ZONING CRITERIA

Bulk Requirements	Required	Proposed
Lot Area	6,000 sq. ft.	11,893 sq. ft.
Lot width	50'	87.78'
Usable open space	n/a	n/a
Front yard	0'	adequate
Side yards	0'	adequate
Rear yard	30'	10' (Var. required)
Floor area ratio	3.0	less than 2.0
Building height	---	2 stories

Site Design	Required	Proposed
Number parking stalls	0 (Central Business District)	0

Other Critical Zoning Items	
Urban Design	No
Barrier free (ILHR 69)	Yes

With the above conditions, the proposed project **does** comply with all of the above requirements.



FLUNO CENTER for Executive Education

601 UNIVERSITY AVE., MADISON WI 53715-1035

GENERAL 608-441-7117, FAX 608-441-7124

RESERVATIONS 877-77-FLUNO

March 19, 2007

Ref: Johnny O's Rooftop Expansion Project

Dear Planning Commissioners:

On behalf of the Fluno Center for Executive Education and its owner, the Center for Advanced Studies in Business, located at 601 University Avenue, I respectfully request that the Commission adopt the condition that would restrict the use of amplified sound of any kind related to the proposed rooftop expansion project at Johnny O's Restaurant & Bar located at 620 University Avenue, Madison. This would otherwise have an adverse impact on our guests' experience and future use thereby impacting our ability to fully contribute to the mission of the UW-Madison School of Business and UW-Madison as a whole, as well as diminishing the economic potential of the Fluno Center.

The Fluno Center for Executive Education is a residential and meetings facility that promotes a full-immersion learning environment for individuals, UW departments, professional groups and corporate teams to learn, exchange ideas and explore new business strategies. The program participants attend classroom instruction throughout the day and study well into the evening. The success of the Fluno Center depends on its ability to maintain a distraction-free environment so participants can easily focus on learning.

Designed exclusively as an educational learning facility, the Fluno Center provides the ideal location for UW-Madison public enrollment programs and custom programs including company and industry-specific symposiums, seminars and conferences. This world-class facility hosts thousands of guests annually, both from the local community as well as nationally and internationally. During non-study times, guests enjoy easy access to local merchants and eateries that bring great value to the community.

The Fluno Center has achieved the honorable distinction as the #1 Executive Education facility in the world for Custom Programs in the Food and Accommodation category for three years running as reported by the *London Financial Times*. Additionally, the Center has been recognized for two years as the *Best Executive Management Educational Institution* by over 600 top executives in the Greater Madison business community as reported by *InBusiness* magazine.

The prominence that the Fluno Center has achieved is, in part, due to its ability to provide a distraction-free learning environment. The adoption of this restriction will mitigate the adverse effects to the Center, its guests and its value to the community.

Thank you for your consideration.

Sincerely,

Jeff Butler
General Manager

Murphy, Brad

From: Jeff Erlanger [jeff.erlanger@gmail.com]
Sent: Wednesday, March 14, 2007 6:04 PM
To: Murphy, Brad; Parks, Timothy
Cc: Scott Herrick; info@houseofwisconsincheese.com; harold@centralapts.com; Johnny O; Jeff Butler; Stephen D. Brown; state-langdon Neighborhood; Capitol Neighborhoods - Executive Committee
Subject: Re: march 19th agenda of planning commission

Dear Planning Commission members,
 My name is Jeff Erlanger and I'm chair of the State-Langdon Neighborhood District (a district of Capitol Neighborhoods Inc). I'm writing to request a delay in Johnny O's Restaurant and Bar's, 620 Univ. Ave, request to build a Rooftop Terrace. My request for a delay should not be seen as an attempt to keep delaying until the project is shelved, but rather should be seen as my attempt to get ample feedback from neighborhood residents. State-Langdon is not like other CNI districts or other neighborhood associations; it often takes 2-3 weeks of notice/reminders, at a minimum, to get a good turnout at a neighborhood meeting. I first heard of 620 Univ. Ave's request Feb 18th and was told it'd appear on your agenda March 19th. Within 2 weeks, I met with the owner, Johnny O, and several nearby property owners. I learned there is concern from a landlord, who sent you a letter dated March 14th, who is concerned the noise from a rooftop terrace would negatively impact his residents. I would like to have a neighborhood meeting or at a minimum give residents time to respond via e-mail. Even with our communication capabilities these days, a month from start to finish just isn't enough time, I ask for a delay to your next meeting.

Sincerely,

Jeff Erlanger

State-Langdon Neigh.. District, Chair

On 3/14/07, **Murphy, Brad** <BMurphy@cityofmadison.com> wrote:

Jeff, you can send it to me and Tim and we will get it to the Commission.

Brad Murphy
 Planning Division Director
 Dept. of Planning & Community & Economic Development
 PO Box 2985
 Madison WI 53701-2985
 608 266 4635
 608 267 8739 FAX

From: Jeff Erlanger [mailto:jeff.erlanger@gmail.com]
Sent: Tuesday, March 13, 2007 3:22 PM
To: Murphy, Brad
Cc: Parks, Timothy
Subject: Re: march 19th agenda of planning commission

Is there an e-mail address for the commission or do I send it to you? Thanks, -Jeff

On 3/13/07, **Murphy, Brad** <BMurphy@cityofmadison.com> wrote:

Jeff,

I got your voice mail message. 620 Univ. Ave. is on for public hearing and action. If you want it delayed you should send a memo to the Plan Commission and copy the applicant to make that request.

3/15/2007

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Herrick & Kasdorf, L.L.P.

Patricia K. Hammel
Scott N. Herrick *Court Commissioner*
Robert T. Kasdorf *Trustee in Bankruptcy*
Juscha E.M. Robinson
David R. Sparer

Robert L. Reynolds, Jr. (1930-1994)

Law Offices

16 N. Carroll, Suite 500
Madison WI 53703

Peter Zarov *of counsel*
Gretchen Twietmeyer *of counsel*
Roger Buffet *of counsel*

March 14, 2007

Memo to: City Plan Commission
Board of Zoning Appeals

From Scott Herrick, attorney for Harold Langhammer and The Varsity of Madison LLC (632 University Avenue)

Re. 620 University Avenue: conditional use and rear yard variance requests: Opposed

My client recently learned of this project indirectly and informally, only through the courtesy of a member of the neighborhood association. We have very serious reservations about the proposed conditional use and variance and must now write on short notice to ask that you reject them. Our concerns include:

1. Rooftop restaurant and alcohol operations at 620 University Avenue would impose a significant noise burden on the residential tenants at The Varsity, 632 University Avenue. We negotiated significant revisions and restrictions on expansion of similar operations at The Church Key, at 626 University Avenue, including sound buffering. Rooftop operations at 620 University pose an even greater noise hazard than the entirely interior Church Key operations to which we objected. Apartment residents have a reasonable expectation that the rooftops around them will not be converted to entertainment venues.
2. Unwelcome noise will not merely offend and inconvenience tenants at The Varsity, but will consequently diminish the marketability of our apartments and thus the market value of our building.
3. A central premise of the proposal is to provide pedestrian exit from the rear of 620 University Avenue over the rear of my client's property. Mr. Okonek has not sought and does not have my client's permission for that use of my client's property.
4. Aside from trespass, the exit plan involves routing pedestrians into and through a blind, dark alley which was designed and intended to accommodate only commercial deliveries and service functions.
5. The request simply does not meet the "Standards for Variance." I believe that the request fails under all 6 standards and do not review each of them here, but I invite your attention especially to standards 1., 3., 5., and 6.
6. If these requests imply an expansion or modification of the applicant's licensed liquor operations, my client opposes that expansion or modification.

My clients and I are deeply troubled that they have been kept in the dark about this project and these requests. When Harold Langhammer has developed plans for his property, he has *ALWAYS* informed and

consulted with city officials and with his neighbors, including the Okoneks. Why was that courtesy not extended to him in return? I don't know what opportunities for constructive engagement may have been missed, but my client is firmly opposed to this project and to this variance.

SH/hs

c Ald. King
Jeff Erlanger