



## Report to the Plan Commission

May 15, 2009

Legistar I.D. #14701  
322 West Johnson Street  
Conditional Use

Report Prepared By:  
Heather Stouder, AICP  
Planning Division Staff

**Requested Action:** Approval of a conditional use for an outdoor eating area at a bar and restaurant in the C3 (Highway Commercial) District.

**Applicable Regulations & Standards:** Section 28.12 (11) provides the guidelines and regulations for the approval of conditional uses. Outdoor eating areas are conditional uses in commercial zoning districts per Section 28.09(2)(d)6.

**Summary Recommendation:** The Planning Division recommends that the Plan Commission find that the conditional use standards can be met and **approve** the conditional use request subject to input at the public hearing and conditions from reviewing agencies.

### Background Information

**Applicant/Property Owner:** Fred Mohs; Mohs, Brand, and McCaughey; 2 E Mifflin St Ste 901, Madison  
**Project Contact:** Arlan Kay; Architecture Network, Inc.; 116 E Dayton St., Madison

**Proposal:** The applicant proposes to construct an outdoor patio for food and beverage service for a new bar and restaurant business in a vacant space formerly used as a bar and restaurant. The applicant hopes to begin renovations and service when all approvals are obtained.

**Parcel Location:** 322 West Johnson Street is a 35,500 square foot (0.8-acre parcel generally located on the north side of West Johnson Street between Broom Street and State Street; Aldermanic District 4 (Verveer); Madison Metropolitan School District.

**Existing Conditions:** The site is currently developed with a two-story building with a vacant restaurant space (formerly the Angelic Brewing Company) along the Johnson Street frontage and an automobile repair shop in the rear, zoned C3 (Highway Commercial) District.

**Surrounding Land Use and Zoning:** The site is in a very active mixed-use area within a half block of State Street.

**North:** Commercial and mixed-use buildings just north of the site (311-341 State Street) are zoned C4 (Downtown Core District), and share access with the proposed restaurant.

**East:** City of Madison Fire Station #1, zoned C3 (Highway Commercial), is located just across West Johnson Street.

**South:** Across West Johnson Street, the Capitol Centre residential development, zoned PUD-SIP (Planned Unit Development – Specific Implementation Plan District) has 150 dwelling units.

**West:** Surface parking associated with automobile repair shop in same building, zoned C2 (General Commercial District). Immediately west of this, at the corner of W Johnson Street and Broom Street, is an historical firehouse building with commercial offices.

**Adopted Land Use Plan:** This property is located in the State Street District as defined by the Comprehensive Plan, where dining and entertainment establishments are a main focus. The process currently underway for a Downtown Plan (not yet drafted) includes this property within the “State Street Character Area”, where mixed-use, retail, culture, and entertainment are envisioned as primary uses.

**Environmental Corridor Status:** This property is not located within a mapped environmental corridor.

**Public Utilities and Services:** This property is served by a full range of urban services, including over twenty Metro Transit Routes.

**Zoning Summary:**

Requirements	Required	Proposed
Lot Area	6,000 sq. ft.	5,016 sq. ft. (existing)
Lot width	50'	38.9' (existing)
Usable open space	N/A	N/A
Front yard	0'	0.2' (existing)
Side yards	0'	0' R /5' L (existing)
Rear yard	30'	30.2'
Floor area ratio	3.0 maximum	Less than 1.0

Site Design		
No. Parking stalls	N/A	N/A
Accessible stalls	2	2
Loading	Yes	None shown
No. Bike Parking Stalls	3	2
Landscaping	Yes	
Lighting	No	

Other Critical Zoning Items	
Urban Design	No
Historic District	No
Flood Plain	No
Utility Easements	None shown
Barrier Free (ILHR 69)	Yes
Proposed Occupancy	100 (in outdoor eating area)

*Prepared by: Pat Anderson, Asst. Zoning Administrator*

## Project Description

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### Existing Conditions

The site is currently developed with a two-story brick building constructed in 1925. Most recently the site of the Angelic Brewing Company, the building has housed a mix of uses over the years. An existing automobile shop is located in the northwestern portion and utilizes the second floor of the building for storage, and the proposed restaurant would occupy the majority of the first floor. The southern and eastern elevations of the building have been significantly altered from their original condition, with a plaster veneer covering much of the brickwork and some original openings on the lower half of the building. The parking lot on the east side of the building has 20 parking stalls accessible from W. Johnson Street. The lot is adjacent to a fifteen-foot wide public fire access lane shared by buildings directly to the north of this lot.

With the Angelic Brewing Company as a tenant, a 500 to 600 square foot brick patio surrounded by a wooden railing served as an outdoor eating area on the eastern side of the building near the main entrance. The railing has been removed, and the past conditional use permit for use of this space as an outdoor eating area included a provision for automatic expiration with a change in ownership.

### Description of Proposal

In order to accommodate a new bar/restaurant tenant, "Logans", in the eastern portion of the building, the applicant proposes to construct an at grade 1,200 square foot outdoor dining patio with a capacity for 100 persons on the eastern side of the building.

### *Site changes*

The proposed patio (approximately 24 feet by 50 feet) is at-grade and surrounded by a well-articulated wall ranging from seven to ten feet in height. The wall includes a steel rail fence along W. Johnson Street, which creates an active relationship between the outdoor eating area and the street. The eastern and northern portions of the wall, dominated by brick with stone accents and a sixteen inch steel rail along the upper portion, provide effective screening from the parking lot to the east.

The plan submitted for the patio includes seating for 90 guests, with fourteen tables for four, six tables for two, and 32 bar seats, seven of which face a proposed pass through from the interior space. Two outdoor fireplaces facing inward are proposed along the eastern patio wall. An emergency exit gate is located on the southern side of the patio.

The patio will necessitate a reduction in parking stalls from approximately 20 to 13 in the parking lot east of the building. Other proposed site changes include two bicycle parking stalls in the area located immediately north of the patio, a five-foot wide strip of evergreens along the eastern side of the patio, and a new dumpster enclosure for the site to be located in the western parking lot.

### *Changes to the exterior of the building*

Although not directly related to this approval, the applicant is initiating notable improvements to the southern and eastern elevations of the building. All existing signage painted on the building will be removed, and the plastered brick veneer will be either removed and replaced with brick or covered with brick veneer to match the upper level of the building.

On the southern elevation, new first floor windows will utilize existing openings, several of which have been filled over time. Twelve windows seven feet high with a two-foot transom will greatly enhance the relationship of the building to W. Johnson Street. New brick, stone, and limestone panels under this row of windows will better define the base of the building. Two small circular windows flank either side of the central portion of the building. Black paint will be removed from the existing stone bands, and new stone and limestone trim pieces will be colored to match these.

On the eastern side of the building facing the proposed patio, existing window openings would be replaced by a four and a half foot by fourteen-foot long horizontal "pass through" window providing access to an interior bar and two new aluminum doors providing access and egress to the patio from the interior space. No changes to the western elevation (Terry's Car Care) or northern elevation are proposed. Although renderings included in the Plan Commission materials show awnings over the windows on the southern and eastern elevation, these would need to be approved separately with the signage package for the building and are not a part of the approval for the conditional use.

### *Operational considerations*

As proposed and approved by the Alcohol License Review Committee (ALRC) on March 18, 2009, "Logans" would have 60 part-time and full-time employees and a total capacity for 495 (100 for the outdoor patio and 395 inside) on weekends and 400 (100 for outdoor patio and 300 inside) on weekdays. This is well over the capacity of 230 established for the previous business, and Capitol Neighborhoods Inc. recommended in their March 17, 2009 letter a limitation on the total capacity of 300.

The applicant has requested that the hours of operation be the same as that for the indoor portion of the facility, which will be open for lunch and remain open until as late as is allowed by MGO Sec. 38.06. This would allow the business to remain open until 2:00AM on weekdays and 2:30AM on weekend days.

## Evaluation and Conclusion

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### Consistency with Adopted Plans

From a land use perspective, an outdoor eating facility on this site is consistent with the Comprehensive Plan and the Downtown Plan in progress, both of which recommend that this area remains a center for mixed-use, retail, culture, dining, and entertainment. The proposed patio and exterior changes to the building will significantly improve the condition of the southern and eastern elevations of the building, and Planning Division staff believes that the use and design will help to reactivate this portion of W. Johnson Street without negative impacts on adjacent properties.

### Parking

The loss of seven vehicle parking stalls to accommodate a larger patio should be easily accommodated on this site, which is located within a quarter mile of over 5,600 residential units and well served by transit, public parking, bicycle, and pedestrian infrastructure. With 60 employees and hundreds of patrons, it is quite likely that the demand for bicycle parking will exceed that which is being proposed. The Zoning Administrator has required that at least three bicycle parking stalls be included on this site, and planning staff recommends that the applicant increase the number of bicycle stalls beyond this, even if it necessitates the loss of an additional vehicle parking stall.

### Operations

To support the desired capacity on the outdoor patio, a second emergency exit may be required. This would likely trigger alterations to the seating plan and the site plan, perhaps necessitating the removal of another parking stall, which would be supported by staff. Staff recommends that the Plan Commission approve the outdoor eating area for a maximum of 100 persons or a lower capacity as determined by Building Inspection and Fire Department staff.

The Plan Commission often prohibits amplified sound and limits hours of operation of outdoor eating areas to minimize negative affects of associated noise for nearby residents. At the time of this writing, the Planning Division knows of no opposition to the applicant's request for the patio to remain open until bar time. In this case, the proposed patio is somewhat shielded from the Capitol Centre residential development across W. Johnson Street, but close to the back of a building with four upper-level residential units on the north side of the parking lot (317 State Street). Regardless of the final capacity, late-night noise from the patio could affect tenants of this building. In this instance, the Planning Division recommends that outdoor amplified sound be prohibited after 10:00 PM due to the proximity of Capitol Centre and the residential units to the north, but does not object to the hours of operation proposed, whereby the patio would close at the same time as the interior space. Following input during the public hearing, it may be appropriate for the Plan Commission to consider an additional condition to limit the hours of operation.

## Recommendations and Proposed Conditions of Approval

Major/Non-Standard Conditions are shaded

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### **Planning Division Recommendation** (Contact Heather Stouder, 266-5974)

The Planning Division recommends that the Plan Commission find that the conditional use standards can be met and **approve** the conditional use request for an outdoor eating area subject to input at the public hearing and the following conditions:

1. The posted capacity of the outdoor eating area will be a maximum of 100 persons, or a lower number as deemed necessary to meet Fire and Building codes.
2. Outdoor amplified sound on the patio is prohibited after 10:00 PM.

3. Final plans submitted for review and approval by staff may show a reduced number of parking stalls in order to accommodate additional bicycle parking and/or an additional exit from the outdoor patio.
4. The Plan Commission retains continuing jurisdiction over the approval of this conditional use. If complaints are received related to late-night noise on the outdoor patio in the future, the Plan Commission may further restrict the hours of operation.

The following conditions have been submitted by reviewing agencies:

**City Engineering Division** (Contact Janet Dailey, 261-9688)

5. The Applicant shall submit, prior to plan sign-off, a digital CAD file (single file) to the Engineering Program Specialist in the Engineering Division (Lori Zenchenko). The digital CAD file shall be to scale and represent final construction. The single CAD file submittal can be either AutoCAD (dwg) Version 2001 or older, MicroStation (dgn) Version J or older, or Universal (dxf) format and contain only the following data, each on a separate layer name/level number:
  - a. Building footprints
  - b. Internal walkway areas
  - c. Internal site parking areas
  - d. Other miscellaneous improvements (i.e. gravel, crushed stone, bituminous/asphalt, concrete, etc.)
  - e. Right-of-Way lines (public and private)
  - f. All Underlying Lot lines or parcel lines if unplatted
  - g. Lot numbers or the words "unplatted"
  - h. Lot/Plat dimensions
  - i. Street names

All other levels (contours, elevations, etc) are not to be included with this file submittal.

**NOTE:** Email file transmissions preferred [zenchenko@cityofmadison.com](mailto:zenchenko@cityofmadison.com). Include the site address in the subject line of this transmittal. Any changes or additions to the location of the building, sidewalks, parking, or pavement during construction will require a new CAD file.

**Traffic Engineering Division** (Contact John Leach, 267-8755)

6. The applicant shall indicate the type of bicycle racks installed and location. Please contact Arthur Ross, City Traffic Engineering at 266-4761 if you have questions regarding the above item.
7. When the applicant submits final plans for approval, the applicant shall show the following: items in the terrace as existing (e.g., signs and street light poles), type of surfaces, existing property lines, addresses, one contiguous plan (showing all easements, all pavement markings, building placement, and stalls), percent of slope, vehicle routes, dimensions of radii, aisles, driveways, stalls including the two (2) feet overhang, and a scaled drawing at 1" = 20'.
8. The applicant shall show the dimensions for proposed and existing parking stalls items B, C, and E and degree of angle parking width and backing up, according to Figures II "Medium and Large Vehicles" parking design standards in Section 10.08(6)(b) 2. Signs and planting areas are to be excluded from the rectangular stall areas including the two (2) feet of vehicle overhang. The two (2) feet of vehicle overhang shall be shown on the plan and dimensioned. The applicant will need to note removing the parking spaces on the existing concrete slab or dimension according to MGO.
9. "Stop" and "No Right Turn" signs shall be installed at a height of seven (7) feet to the bottom of the first sign at the West Johnson Street driveway approach. All directional/regulatory signage and pavement markings on the site shall be shown and noted on the plan. All signs at the approaches shall be installed behind the property line.
10. Public signing and marking related to the development may be required by the City Traffic Engineer for which the developer shall be financially responsible.

**Zoning Administrator** (Contact Pat Anderson, 266-5978)

11. Lighting is not required. However, if it is provided, it must comply with City of Madison outdoor lighting standards (see parking lot packet). Lighting will be limited to .10 watts per square foot.
12. If you have a license to sell alcohol in an outdoor eating area, the Alcohol License Review Committee has established conditions for operation for these applications that involve fencing, security guards, toilet facilities, litter, etc. All businesses that sell alcohol must comply with the requirements imposed by the Alcohol License Review Committee at the time of issuance of your original application to expand or change your licensed premise to include the outdoor eating area. It is your responsibility to have the outdoor service area added to your licensed premise. Please contact the City Clerk's office for ALRC issues.
13. Signage approvals are not granted by the Plan Commission. Signage must be reviewed for compliance with Chapter 31 of the Madison General Ordinances. Signage must be approved by the Urban Design Commission and Zoning staff. Sign permits must be issued by the Zoning Section of the Department of Planning and Community and Economic Development prior to sign installations.
14. Provide a detailed landscape plan. Show species and sizes of landscape elements. Provide a landscape worksheet with the final plans that shows that the landscaping provided meets the point and required tree ordinances. In order to count toward required points, the landscaping shall be within 15' and 20' of the parking lot depending on the type of landscape element. (Note: the required trees do not count toward the landscape point total.)
15. Provide three (3) bike-parking stalls in a safe and convenient location on an impervious surface to be shown on the final plan. NOTE: A bike-parking stall is two feet by six feet with a five-foot access area. Structures that require a user-supplied locking device shall be designed to accommodate U-shaped locking devices.
16. Meet all applicable State accessibility requirements, including but not limited to:
  - a. Provide a minimum of two accessible stalls striped per State requirements. A minimum of one of the stalls shall be a van accessible stall 8' wide with an 8' striped out area adjacent.
  - b. Show signage at the head of the stalls. Accessible signs shall be a minimum of 60" between the bottom of the sign and the ground.
  - c. Show the accessible path from the stalls to the building. The stalls shall be as near the accessible entrance as possible. Show ramps, curbs, or wheel stops where required.
17. Show one 10' x 35' loading area with 14' vertical clearance on the plan. The loading area shall be exclusive of drive aisle, fire lane, and maneuvering space.

**Water Utility** (Contact Dennis Cawley, 261-9243)

18. All wells located on this property shall be abandoned if no valid well operation permit has been obtained from the Madison Water Utility.

**Fire Department** (Contact Scott Strassburg, 261-9843)

This agency did not submit a response for this request.

**Metro Transit** (Contact Tim Sobota, 261-4289)

This agency did not submit a response for this request.