



Project Address: 6831 Odana Road (19th Aldermanic District – Ald. Furman)
Application Type: Conditional Use
Legistar File ID # [68200](#)
Prepared By: Colin Punt, Planning Division
Report includes comments from other City agencies, as noted.
Reviewed By: Heather Stouder, AICP, Planning Division Director
Kevin Firchow, AICP, Principal Planner

Summary

Applicant: Aby Mohamed; Aby Groups; 12365 Rhea Dr; Plainfield, IL 60585
Contact: Lauren Downing; Arc Design Resources; 5291 Zenith Pkwy; Loves Park, IL 61111
Owner: David Israel; Westland Plaza LLC; 3100 Dundee Rd; Northbrook, IL 60062

Requested Action: Approval of a conditional use for a vehicle access sales and major alteration to a planned multi-use site containing more than 40,000 square feet of floor area and where 25,000 square feet of floor area is designed or intended for retail use at 6831 Odana Road.

Proposal Summary: The applicant is seeking the construct a standalone fast food restaurant with a two-lane drive-through within an existing parking lot at 6831 Odana Road.

Applicable Regulations & Standards: Section 28.183 M.G.O. provides the process for conditional uses. Supplemental regulations for vehicle access sales and service windows and planned multi-use sites are found in Section 28.151 M.G.O.

Review Required By: Urban Design Commission, Plan Commission

Summary Recommendations: If the Plan Commission finds that all conditional use standards, including standard nine, can be found met, then the Commission should approve the requested conditional use to construct a vehicle access sales and service window and major alteration to planned multi-use site at 6831 Odana Road. Such approval shall be subject to the conditions recommended by reviewing agencies. However, if the Plan Commission finds that conditional use standards are not met, the Planning Division recommends that the Commission place on file without prejudice the request and specify the standards that have not been met and the reasons such standards were not met.

Background Information

Parcel Location: The subject site is a 42,346-square foot (0.973-acre) parcel located on the south side of Odana Road between South Gammon Road and Grand Canyon Drive. It is within Aldermanic District 19 (Ald. Furman) and the Madison Metropolitan School District.

Existing Conditions and Land Use: 6831 Odana Road is currently occupied by a surface parking lot. The site is zoned CC (Commercial Center District) and part of a planned multi-use site that includes several single-story single- and multi-tenant commercial buildings.

Surrounding Land Uses and Zoning:

North: Across Odana Road, multi-tenant commercial buildings zoned CC (Commercial Center district);

East: Multi-tenant commercial buildings zoned CC;

South: Multi-tenant shopping center zoned CC; and

West: Fast food restaurant with drive-through zoned CC.

Adopted Land Use Plan: The [Comprehensive Plan](#) (2018) recommends Regional Mixed Use for the site. The [Odana Area Plan](#) (2021) also recommends Regional Mixed Use for the site.

Zoning Summary: The subject property is zoned CC (Commercial Center District):

Requirements	Required	Proposed
Lot Area (sq. ft.)	None	42,346
Lot Width	None	261 ft
Front Yard Setback	5 ft	32.5 ft
Side Yard Setback	5 ft	30 ft
Rear Yard Setback	20 ft	43.5 ft
Maximum Lot Coverage	85%	62%
Maximum Building Height	5 stories/78 ft	1 story/19 ft

Site Design	Required	Proposed
Number Parking Stalls	No minimum	19
Accessible Stalls	1	1
Loading	No	No
Number Bike Parking Stalls	4	4
Landscaping	Yes	Yes
Lighting	Yes	Yes
Building Forms	Yes	Free-Standing Commercial

Other Critical Zoning Items	Urban Design (Planned Commercial Site), Utility Easements
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Table prepared by Jacob Moskowitz, Assistant Zoning Administrator

Environmental Corridor Status: The site is not within a mapped environmental corridor.

Public Utilities and Services: The site is served by a full range of urban services.

Project Description

The applicant proposes to construct a fast food restaurant with a drive-through (referred to as a vehicle access sales and service window in the Zoning Code). The proposed building is a single story, 2,984-square foot structure. Exterior materials are predominantly masonry with fiber cement board, simulated wood slats, and metal panel trim and accent materials. Low-level landscaping is included in landscaping islands throughout the site as well as the perimeter of the building. Several ornamental trees are also included near Odana Road and around the perimeter of the site.

The surface parking lot is designed to accommodate 20 vehicles. Four bicycle parking are also provided on plans. Vehicular access to the site is from the private drives to the west and south, which also serve the remainder of the surrounding planned multi-use site. A planned two-lane drive-through can accommodate up to 19 vehicles.

The drive-through entrance and exit are both located at the northwest corner of the building and vehicles utilizing the drive-through circle the entire building counter-clockwise.

Proposed hours of operation are from 10 a.m. to 10 p.m. daily.

If approved, the applicant intends to begin construction in summer 2022 with a fall 2022 opening date.

Signage is included with the application materials. Signage approvals are not part of the land use application and approval process and will be addressed separately through the regular signage review process.

Analysis and Conclusion

This request is subject to the standards for conditional uses as vehicle access sales and service windows are a conditional use in the CC district per MGO §28.0867(2)(a). This section begins with adopted plan recommendations before providing an analysis the conditional use standards.

Conformance with Adopted Plans

The [Comprehensive Plan](#) (2018) recommends Regional Mixed Use (RMU) for the site. The RMU category includes high-intensity centers supporting a variety of multifamily housing options and commercial activity serving the needs of the region. These areas typically include large-scale sites supportive of multistory buildings up to twelve stories in height, subject to recommendations in adopted sub-area plans. The plan acknowledges that while the areas around West Towne Mall may continue to resemble a regional mall for some time; a transition to a more pedestrian/bicycle/transit friendly environment with a wider variety of uses is expected as part of a planned transition to a higher-intensity center supporting a variety of multifamily housing options and commercial activity serving the needs of the region.

The [Odana Area Plan](#) (2021) also recommends RMU for the site. The maximum recommended height at this location is eight stories in the special area plan. The [Odana Area Plan](#) also has a number of design element recommendations included as an appendix. Included in the appendix are recommendations that new buildings have a minimum height of two stories; that buildings be minimally set back from the street to maintain walkability; that EIFS, stucco, and similar materials are not used as a building materials; that new buildings be oriented on sites to maximize pedestrian, transit, and bicyclist use while shielding parking from the public realm; and that ground floor commercial uses have useable entrances facing a public street. The [Odana Area Plan](#) also recommends that buildings within Commercial Core have outdoor patios, dining, awnings, and display windows and have at least sixty percent (60%) facade transparency between two (2) and eight (8) feet from ground level. The plan recommends against the use of materials such as EIFS, stucco, and similar materials.

Staff notes that while several proposed single-story buildings have been approved in areas recommended for RMU in the [Comprehensive Plan](#), this is the first such proposal that the Plan Commission will be reviewing against the recommendations in the [Odana Area Plan](#).

Conditional Use Standards

The Plan Commission shall not approve a conditional use without due consideration of the City's adopted plan recommendations, design guidelines, supplemental regulations, and finding that all of the conditional use standards of M.G.O. §28.183(6) are met. Staff advises the Plan Commission that in evaluating the conditional use

standards, State law requires that conditional use findings must be based on “substantial evidence” that directly pertains to each standard and is not based on personal preference or speculation.

In this case, the requested new conditional use request is to establish a vehicular access sales and service window or (“drive-thru”). This request does not include a specific conditional use related to height or bulk considerations. However, as this cross-connected zoning lot is also considered a conditional use planned multi-use site, this development is also considered a major alteration to that existing conditional use.

As part of the “due consideration” of adopted plans, staff notes that the proposal is inconsistent with some aspects of the recently adopted Odana Area Plan, most notably, the two-story height recommendation in the Design Elements Appendix and specific setback recommendations. Staff have provided the following comments regarding conditional use standards four, five, and nine.

Regarding conditional use standard four, it states, *“The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.* While the proposal is inconsistent with some height and setback recommendations, the Commission, as part of its “due consideration” would need to evaluate whether establishing this conditional use would impede the development of other permitted uses in the Zoning district on *surrounding properties*, specifically in this situation the other existing sites and structures and potential future development within the planned multi-use site. While the plan recommends more intensive development than what is currently proposed, the Comprehensive Plan acknowledges that not all buildings in mixed-use areas must contain a mix of uses. Further, there is not a recommendation specifically against “drive-thru” facilities in mixed-use areas. Finally, the proposed development does not conflict with the location of any recommended streets. While staff notes concerns regarding possible plan inconsistencies, it believes that it may be possible to find this specific standard is met.

Regarding conditional use standard of approval five, it states, *Adequate utilities, access roads, drainage, parking supply, internal circulation improvements, including but not limited to vehicular, pedestrian, bicycle, public transit and other necessary site improvements have been or are being provided.* M.G.O. §28.151 enumerates supplemental regulations for vehicle access sales and service windows. Among the supplemental requirements for vehicle access sales and service windows, plans for onsite circulation and driveway locations are to be reviewed where conditional use approval is required. Site design must accommodate a logical and safe vehicle and pedestrian circulation pattern. Adequate queuing lane space shall be provided without interfering with onsite parking/circulation. Planning staff had previously expressed concerns that the building itself is wrapped on nearly the entirety of its perimeter with the drive-through lanes, and access to the build on every side, including from Odana Road, necessitates that a patron on foot or bicycle cross a drive-through lane. Staff notes that the revised proposal is supported by Traffic Engineering and was recommended for approval by the UDC. While this updated plan moves vehicle access lanes and parking and creates a clearer pedestrian connection to the building, numerous potential pedestrian-vehicle conflict points still exist.

Also related to plan consistency, conditional use standard nine references the “existing or intended character” in regards to new buildings and aesthetic desirability. Specifically, the standard states, *“When applying the above standards to any new construction of a building or an addition to an existing building the Plan Commission shall find that the project creates an environment of sustained aesthetic desirability compatible with the existing or intended character of the area and the statement of purpose for the zoning district....”* As a reference, the CC Zoning District Statement of purpose is included as an appendix to this report.

There are multiple aesthetic and design-related considerations that potentially relate to this standard. As noted above, the development itself is an alteration to a “planned multi-use” conditional use site. While one-story

buildings are allowed under the property's current CC (Commercial Center) zoning, the building would not be consistent with the recommend minimum two-story buildings for this property. In addition to height considerations, the Odana Area Plan also recommends that buildings fronting "Commercial Core" areas, which includes the frontage of the 6800-block of Odana Road, should be set back no more than five feet to create a consistent, engaging, and walkable street frontage and should be oriented on sites to maximize pedestrian, transit, and bicyclist use while shielding parking from the public realm. Staff notes, however, that private deed restrictions that also exist on this property require a minimum 30 foot building setback, which is similar to other properties in the surrounding area, but that the City is not party to these private deed restrictions. Furthermore, as noted above, the Odana Area Plan recommends that new buildings have ground floor commercial uses with useable entrances facing a public street and buildings within Commercial Core have outdoor patios, dining, awnings, and display windows and have at least sixty percent (60%) facade transparency between two (2) and eight (8) feet from ground level.

Urban Design Commission Recommendation

Related to standard 9, this request has received a recommendation of "final approval" from the Urban Design Commission. During their initial review at the December 15, 2021 meeting, the UDC referred the request, advising that it should not proceed pending further attention given to traffic circulation, as well as the accessible ramp, building materials, and certain planting details. A revised plan that reworked the drive-thru circulation, front stair design, and material modifications (replacing fiber cement and EIFS with brick) was presented and recommended for approval at the March 9, 2022 meeting. As part of their recommendation for approval, the UDC's motion noted the specific recommendation of the site plan layout that provides a direct pedestrian path with stairs and a railing from the Odana Road sidewalk. The UDC did not provide any additional comments or recommended conditions related to building design, height, or materials as part of their review of the revised materials.

Conclusion

The applicant proposes a one-story fast food restaurant with a "drive-thru" service window. The request requires conditional use consideration specifically for the "drive-thru." Additionally, conditional use consideration is required for the proposed modifications as the subject property is part of a larger conditional use planned multi-use site that includes the surrounding cross-connected properties.

As a conditional use, the Plan Commission must give due consideration to the recommendations in adopted plans and make specific findings related to the Conditional Use Standards. While one-story buildings are allowed under the property's current CC (Commercial Center) zoning, it is in conflict with some height recommendations in adopted plans. Specifically, the recently adopted Odana Area Plan's Design Element Appendix recommends a minimum height of two-stories. Additionally, while the proposed setback exceeds what is recommended in that plan, staff notes that outside of City requirements the site is also subject to private covenants that require a 30 foot building setback, which the City is not party to.

While a plan inconsistency does not necessarily mean a proposal cannot be found to meet the standards, careful consideration should be given as to how such inconsistencies specifically relate to each of the standards. For this request, staff has provided focused analysis related to standards, four, five, and nine. Staff believes such considerations most specifically relate to approval standard nine, primarily due to the one-story building form. Under this standard, to approve this request the Plan Commission must find that the request creates an environment of sustained aesthetic desirability compatible with the existing or intended character or the surrounding area and the statement of purpose of the CC Zoning District.

Related to standard four are questions regarding the normal and orderly development of the planned multi-use site and other surrounding properties, specifically within the context of the land use recommendations of the Comprehensive Plan and Odana Area Plan, as well as the uses permitted in the CC district. On balance, staff believes that standard four can be found met with the recommended conditions of approval.

Related to standard five are questions regarding orientation of the site for auto uses rather than pedestrian, transit, and bicycle users as recommended in the Odana Area Plan. On balance, staff believes that standard five can be found met with the recommended conditions of approval.

While staff have concerns regarding some of this application's inconsistencies with the recently adopted plan, staff believes, on balance, it may be possible to find the applicable standards met. Should the Commission not be able to make such a finding, the Zoning Code requires that the Commission specify the standards that have not been met and the reasons such standards were not met.

Recommendation

Planning Division Recommendations (Contact Colin Punt 243-0455)

If the Plan Commission finds that all conditional use standards, including standards four, five, and nine, can be found met, then the Commission should approve the requested conditional use to construct a vehicle access sales and service window and major alteration to planned multi-use site at 6831 Odana Road. Such approval shall be subject to the conditions recommended by reviewing agencies. However, if the Plan Commission finds that conditional use standards are not met, the Planning Division recommends that the Commission place on file without prejudice the request and specify the standard(s) that have not been met and the reasons such standards were not met.

Recommended Conditions of Approval: Major/Non-Standard Conditions are Shaded

Planning Division (Contact Colin Punt, 243-0455)

1. Note, this development is subject to existing private deed restrictions.

Zoning Administrator (Contact Jacob Moskowitz, 266-4560)

2. Provide details showing that the primary street façade meets the door and window opening requirements of Section 28.060(2)(d). For nonresidential uses at ground floor level, windows and doors or other openings shall comprise at least sixty percent (60%) of the length and at least forty percent (40%) of the area of the ground floor of the primary street facade. At least fifty percent (50%) of windows on the primary street facade shall have the lower sill within three (3) feet of grade.
3. Signage approvals are not granted by the Plan Commission. Signage must be reviewed for compliance with Chapter 31 Sign Codes of the Madison General Ordinances and Chapter 33 Urban Design District ordinances. Signage permits are issued by the Zoning Section of the Department of Planning and Community and Economic Development.

City Engineering Division (Contact Tim Troester, 267-1995)

4. Applicant shall dedicate a private sanitary sewer easement for the private sewer main that runs through the lot being developed on the western portion of the lot.

5. Applicant shall provide a separate dedicated sanitary sewer lateral to serve the proposed lot development.
6. Obtain a permit to Excavate in the Right-of-Way for completing the improvements in the public Right-of-Way. The permit application is available on the City Engineering Division website at <http://www.cityofmadison.com/engineering/Permits.cfm>.
7. Madison Metropolitan Sewerage District (MMSD) charges are due and payable prior to Engineering sign-off, unless otherwise collected with a Developer's / Subdivision Contract. Contact Mark Moder (608-261-9250) to obtain the final MMSD billing a minimum of two (2) working days prior to requesting City Engineering signoff. (MGO 16.23(9)(d)(4))
8. An Erosion Control Permit is required for this project. See Storm comments for permit specific details and requirements.
9. A Storm Water Management Report and Storm Water Management Permit is required for this project. See Storm comments for report and permit specific details and requirements.
10. A Storm Water Maintenance Agreement (SWMA) is required for this project. See Storm comments for agreement specific details and requirements.
11. This site appears to disturb less than one (1) acre of land. No submittal to the WDNR, CARPC or Department of Safety and Professional Services (DSPS) is required as the City of Madison Building Inspection Department is an approved agent for DSPS.
12. This project will disturb 20,000 sf or more of land area and require an Erosion Control Plan. Please submit an 11" x 17" copy of an erosion control plan (pdf electronic copy preferred) to Megan Eberhardt (west) at meberhardt@cityofmadison.com, or Daniel Olivares (east) at daolivares@cityofmadison.com, for approval. Demonstrate compliance with Section 37.07 and 37.08 of the Madison General Ordinances regarding permissible soil loss rates. Include Universal Soil Loss Equation (USLE) computations for the construction period with the erosion control plan. Measures shall be implemented in order to maintain a soil loss rate below 5.0 tons per acre per year. The WDNR provided workbook to compute USLE rates can be found online at <https://dnr.wi.gov/topic/stormwater/publications.html>
Complete weekly self-inspection of the erosion control practices and post these inspections to the City of Madison website - as required by Chapter 37 of the Madison General Ordinances.
13. Prior to approval, this project shall comply with Chapter 37 of the Madison General Ordinances regarding stormwater management. Specifically, this development is required to submit a Storm Water Management Permit application, associated permit fee, Stormwater Management Plan, and Storm Water Management Report to City Engineering. The Stormwater Management Permit application can be found on City Engineering's website at <http://www.cityofmadison.com/engineering/Permits.cfm>.
The Storm Water Management Plan & Report shall include compliance with the following:
Report: Submit prior to plan sign-off, a stormwater management report stamped by a P.E. registered in the State of Wisconsin.
Electronic Data Files: Provide electronic copies of any stormwater management modeling or data files including SLAMM, RECARGA, TR-55, HYDROCAD, Sediment loading calculations, or any other electronic modeling or data files. If calculations are done by hand or are not available electronically, the hand copies or printed output shall be scanned to a PDF file and provided to City Engineering. (POLICY and MGO 37.09(2))

Rate Control: Reduce the peak rate of discharge by 15% in the 10 - year storm event compared to existing conditions for the redevelopment area.

Reduce TSS by 80% off of the proposed development when compared with the existing site.

Oil/Grease Control: Treat the first 1/2 inch of runoff over the proposed parking facility and/or drive up window.

Volume Control: Reduce the total volumetric discharge from the site by 5% in the 10-year storm event compared to existing conditions.

Submit a draft Stormwater Management Maintenance Agreement (SWMA) for review and approval that covers inspection and maintenance requirements for any BMP used to meet stormwater management requirements on this project.

14. Submit, prior to plan sign-off but after all revisions have been completed, a digital CAD file (single file) to the Engineering Division that is to scale and represents final construction with any private storm and sanitary sewer utilities.
15. Submit, prior to plan sign-off but after all revisions have been completed, digital PDF files to the Engineering Division. Email PDF file transmissions are preferred to: bstanley@cityofmadison.com (East) or ttroester@cityofmadison.com (West).

City Engineering Division – Mapping Section (Contact Jeff Quamme, 266-4097)

16. Certified Survey Map Number 13966 has a restriction for Lot 2, being this site, that a separate sewer and water lateral are required to serve this Lot.

17. Note: Reciprocal Easements for shared access, drainage and utilities are in place and serve this parcel per Doc No's 1568915 and Amendment Doc No 5148514.

Traffic Engineering Division (Contact Sean Malloy, 266-5987)

18. The applicant shall submit one contiguous plan showing proposed conditions and one contiguous plan showing existing conditions for approval. The plan drawings shall be to engineering scale and include the following, when applicable: existing and proposed property lines; parcel addresses; all easements; vision triangles; pavement markings; signing; building placement; items in the terrace such as signs, street light poles, hydrants; surface types such as asphalt, concrete, grass, sidewalk; driveway approaches, including those adjacent to and across street from the project lot location; parking stall dimensions, including two (2) feet of vehicle overhang; drive aisle dimensions; semitrailer movement and vehicle routes; dimensions of radii; and percent of slope.
19. The Developer shall post a security deposit prior to the start of development. In the event that modifications need to be made to any City owned and/or maintained traffic signals, street lighting, signing, pavement marking and conduit/handholes, the Developer shall reimburse the City for all associated costs including engineering, labor and materials for both temporary and permanent installations.
20. The City Traffic Engineer may require public signing and marking related to the development; the Developer shall be financially responsible for such signing and marking.
21. All parking facility design shall conform to MGO standards, as set in section 10.08(6).

22. All bicycle parking adjacent pedestrian walkways shall have a 2 foot buffer zone to accommodate irregularly parked bicycles and/or bicycle trailers.
23. All pedestrian walkways adjacent parking stalls shall be 7 feet wide to accommodate vehicle overhang, signage and impediments to walkway movements. Any request for variance shall be submitted to and reviewed by City Traffic Engineering.
24. The applicant shall provide a clearly defined 5' walkway from the front door to the public Right of Way clear of all obstructions to assist citizens with disabilities, especially those who use a wheel chair or are visually impaired. Obstructions include but are not limited to tree grates, planters, benches, parked vehicle overhang, signage and doors that swing outward into walkway.
25. "Stop" signs shall be installed at a height of seven (7) feet from the bottom of the sign at all class III driveway approaches, including existing driveways, behind the property line and noted on the plan. All directional/regulatory signage and pavement markings on the site shall be shown and noted on the plan.
26. One way operation of the site shall be secured by placing a "One Way" sign at the entrance and a "Do Not Enter" sign at the Exit.
27. All existing driveway approaches on which are to be abandoned shall be removed and replaced with curb and gutter and noted on the plan.
28. Developer shall provide a recorded copy of any joint driveway ingress/egress and crossing easements and shall be noted on face of plan.

Water Utility (Contact Jeff Belshaw, 261-9835)

29. A Water Service Application Form and fees must be submitted before connecting to the existing water system. Provide at least two working days notice between the application submittal and the requested installation or inspection appointment. Application materials are available on the Water Utility's Plumbers & Contractors website (<http://www.cityofmadison.com/water/plumbers-contractors>), otherwise they may be obtained from the Water Utility Main Office at 119 E Olin Ave. A licensed plumber signature is required on all water service applications. For new or replacement services, the property owner or authorized agent is also required to sign the application. A Water Meter Application Form will subsequently be required to size & obtain a water meter establish a Water Utility customer account and/or establish a Water Utility fire service account. If you have questions regarding water service applications, please contact Madison Water Utility at (608) 266-4646.

Metro Transit (Contact Timothy Sobota, 261-4289)

30. In coordination with any public works improvements, the applicant shall maintain or replace the concrete boarding terrace surface at the existing Metro bus stop on the south side of Odana Road, west of eastern access drive (#6357).
31. The applicant shall install and maintain a new passenger seating amenity - either as part of the private landscape plan or in the public right-of-way area at the existing Metro bus stop. If located in the public right-of-way, the applicant shall submit a Privilege in Streets (Bus Seating) application for review by the City.

An approved Encroachment Agreement, for the seating amenity, shall be executed prior to sign off. Contact City Real Estate to start the Privilege in Streets (Bus Shelter) application process. (MGO 10.31)

32. The applicant shall include the location of these facilities on the final documents filed with their permit application, so that Metro Transit may review and effectively plan for City transit access to this property.

33. Metro Transit operates daily all-day transit service along Odana Road adjacent this property - with trips at least every 60 minutes.

The Fire Department and Parks Division have reviewed this request and have recommended no conditions of approval.

APPENDIX
CC (Commercial Center) District Statement of Purpose

The CC District is established to recognize the existing large-format retail and office sites within the City that remain largely auto-oriented, and to encourage their transformation into mixed-use centers that are equally conducive to pedestrian, bicycle, transit and motor vehicle activity. The district is also intended to:

- (a) Improve the quality of landscaping, site design and urban design within commercial centers.
- (b) Encourage diversification of land use in commercial centers.
- (c) Encourage appropriate transitions between higher-intensity uses and adjacent lower-density residential districts.
- (d) Facilitate preservation, development or redevelopment consistent with the adopted goals, objectives, policies, and recommendations of the Comprehensive Plan and of adopted neighborhood, corridor or special area plans.