



**Project Address:** 698 S. Whitney Way  
**Application Type:** Demolition Permit and Conditional Use  
**Legistar File ID #** [30664](#)  
**Prepared By:** Timothy M. Parks, Planning Division  
Report includes comments from other City agencies, as noted.

## Summary

**Applicant:** Greg Lautzenheiser, L + A Architects, Inc.; 2430 Rochester Court, Suite 200; Troy, Michigan.

**Property Owner:** Thomas Thayer, Thayer Properties, LLC; 2430 Research Park Drive; Fitchburg.

**Requested Action:** Approval of a demolition permit and conditional use to allow demolition of a retail building and construction of a restaurant with a vehicle access sales and service window at 698 S Whitney Way.

**Proposal Summary:** The applicant and property owner propose to demolish an existing one-story, 5,300 square-foot retail building to allow construction of a 1,950 square-foot Taco Bell with a vehicle access sales and service window and 22 surface parking stalls. The applicant wishes to proceed as soon as all regulatory approvals have been granted, with completion scheduled for fall 2013.

**Applicable Regulations & Standards:** Table 28D-2 in Section 28.061 of the Zoning Code identifies vehicle access sales and service window as conditional (accessory) uses in the CC (Commercial Center) zoning district. Section 28.183 of the Zoning Code provides the process and standards for the approval of conditional use permits. Section 28.185 of the Zoning Code provides the process and standards for the approval of demolition and removal permits.

**Review Required By:** Plan Commission [The Urban Design Commission reviewed this project on August 7, 2013.]

**Summary Recommendation:** The Planning Division recommends that the Plan Commission find the standards met and **approve** a demolition permit and conditional use to allow demolition of a retail building and construction of a restaurant with a vehicle access sales and service window at 698 S Whitney Way, subject to input at the public hearing and the conditions from reviewing agencies beginning on page 4 of this report.

## Background Information

**Parcel Location:** The subject site is an approximately 23,383 square-foot (0.54-acre) parcel located at the northwestern corner of S. Whitney Way and Odana Road; Aldermanic District 19 (Clear); Urban Design District 3; Madison Metropolitan School District.

**Existing Conditions and Land Use:** The site is developed with an approximately 5,300 square-foot multi-tenant retail building and 16 parking stalls in CC (Commercial Center District) zoning.

### Surrounding Land Use and Zoning:

North: Vintage Brewing Co., Rubin's Furniture, zoned CC (Commercial Center District);

**South:** Heritage Square shopping center (Cancun Restaurant, Victor Allen’s, etc.), zoned CC-T (Commercial Corridor–Transitional District);

**East:** Mobil, Hy-Vee and Westgate Mall, zoned CC;

**West:** Whitney Square shopping center (Takara and Laredo’s restaurants, Guitar Center, etc.), zoned CC.

**Adopted Land Use Plan:** The Comprehensive Plan recommends the subject site and properties to the north for future Community Mixed-Use development, while properties to the west and south are recommended for General Commercial development.

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

Requirements	Required	Proposed
Maximum Front Yard	85'	53' from Odana Road
Side Yards	5' for one-story buildings	Adequate – 12' on the west
Rear Yard	Lesser of 20% of lot depth or 20'	30' to north property line
Floor Area Ratio	N/A	---
Building Height	5 stories and 68 feet	1 story, 22.1 feet
No. of Parking Stalls	No minimum. Maximum to be determined by Zoning Administrator	22
No. of Accessible Parking Stalls	1	1 (See agency conditions)
Maximum Lot Coverage	85%	Show on final plan (See conditions)
No. Bike Parking Stalls	To be determined by occupancy	10 (See conditions)
Loading	0	Loading in drive aisle
Building Form	Free-standing commercial building	Complies with requirements
<b>Other Critical Zoning Items</b>		
Yes:	Urban Design (Urban Design District 3), Utility Easements, Barrier Free	
No:	Wellhead Protection, Floodplain, Landmarks, Waterfront Development	
<i>Prepared by: Pat Anderson, Asst. Zoning Administrator</i>		

**Environmental Corridor Status:** The property is not located within a mapped environmental corridor (Map C9).

**Public Utilities and Services:** The site is served by a full range of urban services, including seven-day Metro Transit service along S. Whitney Way and Odana Road.

## Project Description

The applicant is requesting approval to demolish the existing one-story, 5,300 square-foot multi-tenant retail building located at the northwestern corner of the site. The site is served by approximately 16 parking stalls located between the building and S. Whitney Way and Odana Road, which are accessed by a driveway from each street.

The existing retail building will be replaced by a one-story Taco Bell restaurant to be located in the same general location on the site. The new restaurant will be served by 22 parking stalls to be located primarily between the building and S. Whitney Way and will include a vehicle access sales and service window along the western façade that will queue around the northern and western walls. A menu board and ordering position will be located between the north of the building and northern property line and will towards a retaining wall that

separates the subject site from the restaurant/ brewpub located on the next parcel to the north. Access to the redeveloped site will be provided by the existing driveways.

## Analysis and Conclusion

Vehicle access sales and service windows (drive-thru windows) are accessory uses in the Commercial and Mixed-Use zoning districts requiring conditional use approval. Vehicle access sales and service windows are also subject to the following Supplemental Regulations in Section 28.151 of the Zoning Code:

- a.) Vehicle access sales and service windows shall be located to the side or rear of buildings, shall not be located between the principal structure and a public street, and shall be at least sixty (60) feet from the closest point of any residentially zoned property or property with a residential building.
- b.) Points of vehicular ingress and egress shall be located at least sixty (60) feet from the intersection of two streets and at least sixty (60) feet from abutting residentially zoned property.
- c.) Plans for onsite circulation and driveway locations shall be reviewed where conditional use approval is required. Site design shall accommodate a logical and safe vehicle and pedestrian circulation pattern. Adequate queuing lane space shall be provided without interfering with onsite parking/circulation.
- d.) Speaker box sounds from the drive-through lane shall not be plainly audible so as to unreasonably disturb the peace and quiet of abutting residential property.
- e.) Drive-through canopies and other structures, where present, shall be constructed from the same materials as the primary building and with a similar level of architectural quality and detailing.
- f.) A six-foot buffer area with screen planting and an obscuring wall or fence shall be required along any property line adjoining an existing residence or residentially zoned property.
- g.) Bicyclist use of sales and service windows shall not be prohibited.

Photos of the existing building and environs submitted with the application depict a structure that is similar in character to many other commercial buildings located elsewhere near the intersection of S. Whitney Way and Odana Road. The building appears to be in average condition, and staff has no information that would suggest that the demolition standards cannot be met with the request to raze it. Staff does not believe that the proposed demolition and conditional use for a restaurant with vehicle access sales and service window will have an adverse impact on the uses, values and enjoyment or normal and orderly development and improvement of surrounding properties, which include similar auto-oriented retail and service uses on three of the four corners of the Odana-S. Whitney intersection. Staff also believes that the supplemental regulations enumerated above for vehicle access sales and service windows are met with this request.

The site is located in Urban Design District 3; the Urban Design Commission granted final approval of the new building on August 7, 2013 (see attached report). The Landmarks Commission informally reviewed the demolition of the retail building on March 11, 2013 and noted that the structure has no known historic value.

On July 16, 2013, the Common Council approved a zoning text amendment to revise the front yard setbacks in Section 28.068(3)(a) for the CC zoning district to replace the requirement that new buildings be located in accordance with the requirements in the Urban Design Commission ordinance, Section 33.24(4)(f)8 ("Big Box") with a requirement that at least 70% of the street-facing building wall be set back no more than 85 feet to allow for a single drive aisle and 2 rows of parking or landscaped area unless designated otherwise on the zoning map. The amendment allows the setback to be extended to a maximum of 100 feet if traffic circulation, drainage and or other site design issues are shown to require additional space. The amendment replaced the "Big Box" cross-

reference with specific standards that staff felt were more appropriate for smaller buildings while leaving the siting standards in place for buildings that fall within traditional large retail establishment criteria. The Zoning Administrator has determined that the placement of the new restaurant will satisfy the amended requirements.

## **Recommendation**

### **Planning Division Recommendation** (Contact Timothy M. Parks, 261-9632)

The Planning Division recommends that the Plan Commission find the standards met and **approve** a demolition permit and conditional use to allow demolition of a retail building and construction of a restaurant with a vehicle access sales and service window at 698 S Whitney Way, subject to input at the public hearing and the following conditions:

#### **Recommended Conditions of Approval** Major/Non-Standard Conditions are Shaded

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| 1. Revise the building elevations prior to final approval and issuance of demolition or building permits to correctly label the facades to reflect the proposed orientation of the new restaurant. |
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#### **The following conditions of approval have been submitted by reviewing agencies:**

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

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| 2. Provide information on how the bioretention will safely overflow if the storm sewer reaches capacity. |
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3. The applicant shall close all abandoned driveways by replacing the curb in front of the driveways and restoring the terrace with grass.
  4. The applicant shall replace all sidewalk and curb and gutter abutting the property, which is damaged by the construction, or any sidewalk and curb and gutter that the City Engineer determines needs to be replaced because it is not at a desirable grade regardless of whether the condition existed prior to beginning construction.
  5. All work in the public right of way shall be performed by a City-licensed contractor.
  6. All damage to the pavement on S. Whitney Way and Odana Road adjacent to this development shall be restored in accordance with the City's Pavement Patching Criteria.
  7. The applicant shall demonstrate compliance with Section 37.07 and 37.08 of the Madison General Ordinances regarding permissible soil loss rates. The erosion control plan shall include Universal Soil Loss Equation (USLE) computations for the construction period. Measures shall be implemented in order to maintain a soil loss rate below 7.5-tons per acre per year.
  8. For commercial sites less than one acre in disturbance, the City of Madison is an approved agent of the Department of Commerce and Wisconsin Department of Natural Resources (WDNR). As this project is on a site with disturbance area less than one acre and contains a commercial building, the City of Madison is authorized to review infiltration, stormwater management, and erosion control on behalf of the Department of Commerce. No separate submittal to Commerce or the WDNR is required.

9. Prior to approval, this project shall comply with Chapter 37 of Madison General Ordinances regarding stormwater management. Specifically, this development is required to: reduce TSS off of the proposed development by 80% when compared with the existing site; provide oil & grease control from the first 1/2" of runoff from parking areas, and; complete an erosion control plan and 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 Madison General Ordinances.
10. The applicant shall submit, prior to plan sign-off, digital CAD files to the Land Records Coordinator in the City Engineering Division. (Lori Zenchenko) [lzenchenko@cityofmadison.com](mailto:lzenchenko@cityofmadison.com). The digital copies shall be drawn to scale and represent final construction including: building footprints, internal walkway areas, internal site parking areas, lot lines/ numbers/ dimensions, street names, and other miscellaneous impervious areas. All other levels (contours, elevations, etc) are not to be included with this file submittal. E-mail file transmissions are preferred. The digital CAD file shall be to scale and represent final construction. Any changes or additions to the location of the building, sidewalks, parking/pavement during construction will require a new CAD file. The single CAD file submittal can be either AutoCAD (dwg) Version 2001 or older, MicroStation (dgn) Version J or older, or Universal (dxf) format. Please include the site address in this transmittal.
11. The applicant shall submit, prior to plan sign-off, digital PDF files to the City Engineering Division. The digital copies shall be to scale, shall have a scale bar on the plan set, and shall contain the following items: building footprints; internal walkway areas; internal site parking areas; lot lines and right-of-way lines; street names, stormwater management facilities and; detail drawings associated with stormwater management facilities (including if applicable planting plans).
12. The applicant shall submit prior to plan sign-off, electronic copies of any Stormwater Management File including: SLAMM DAT files; RECARGA files; TR-55/HYDROCAD/etc., and; sediment loading calculations. 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.
13. The applicant shall obtain a Street Excavation permit for the installation of utilities required to serve this project. The applicant shall pay the permit fee, inspection fee and street degradation fee as applicable and shall comply with all the conditions of the permit.
14. Prior to final approval of the demolition permit, the owner shall obtain a permit to plug each existing sanitary sewer and/ or storm sewer lateral that serves a building that is proposed for demolition. Prior to approval, the owner or owner's representative shall obtain a permit to plug each existing lateral that serves a building which is proposed for demolition. For each lateral to be plugged, the owner shall complete a sewer lateral plugging application and pay the applicable permit fees. Note: New plugging procedures and permit fees are in effect as of January 1, 2013.
15. All outstanding Madison Metropolitan Sewerage District (MMSD) and City of Madison sanitary sewer connection charges are due and payable prior City Engineering Division sign-off, unless otherwise collected with a Developer's / Subdivision Contract. Contact Janet Dailey (608-261-9688) to obtain the final MMSD billing a minimum of 2 working days prior to requesting City Engineering Division signoff.
16. The site plan shall be revised to show all existing public sanitary sewer facilities in the project area as well as the size, invert elevation, and alignment of the proposed service.

17. This project appears to have proposed uses that could require sanitary sewer demand charges or monitoring of the discharge of sanitary sewerage. The applicant shall install a monitoring manhole on the exterior of the building in compliance with City of Madison Engineering Division criteria. Please contact Tim Troester at 608-267-1195 with questions regarding this requirement.

**Traffic Engineering Division** (Contact Eric Halvorson, 266-6527)

18. The applicant shall dedicate 3 feet of right of way for the entire lot adjacent to S. Whitney Way for improved multimodal ingress and egress.

19. The applicant shall dedicate 7 feet of right of way for the entire lot adjacent to Odana Road for improved multimodal ingress and egress.

20. The applicant shall enter into a developers agreement to expand the traffic island on Odana Road directly south of the site.

21. When the applicant shall submit 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 and proposed property lines, addresses, one contiguous plan (showing all easements, all pavement markings, building placement, and stalls), adjacent driveway approaches to lots on either side and across the street, signage, percent of slope, semitrailer movements and vehicle routes, dimensions of radii, aisles, driveways, stalls including the 2 feet overhang, and a scaled drawing at 1" = 20'. Contact City Traffic Engineering if you have questions.

22. The developer shall post a deposit and reimburse the City for all costs associated with any modifications to traffic signals, street lighting, signing and pavement marking, and conduit and handholes, including labor, engineering and materials for both temporary and permanent installations.

23. 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)

24. Provide a reuse/recycling plan, to be reviewed and approved by the City's Recycling Coordinator, George Dreckmann, prior to a demolition permit being issued. Section 28.185(7)(a)5 of the Zoning Ordinance requires the submittal of documentation demonstrating compliance with the approved reuse and recycling plan. Please note, the owner must submit documentation of recycling and reuse within 60 days of completion of demolition.

25. Signage approvals are not granted by the Plan Commission. Signage must be reviewed for compliance with MGO Section 31, Sign Code prior to sign installations.

26. Pursuant to MGO Section 28.142(3) – Landscape Plan and Design Standards: Landscape plans for zoning lots greater than 10,000 square feet in size must be prepared and stamped by a registered landscape architect.

27. Provide the minimum bike parking stalls in a safe and convenient location on an impervious surface subject to Section 28.141(11) to be shown on the final plan. Capacity of the restaurant is established by the Building Inspection Division (608-266-4551). Bike parking shall comply with MGO Table 28I-3 (General Regulations).

- 28. Final plan sets shall provide detail and show compliance with the maximum lot coverage in CC zoning district.
- 29. Parking requirements for persons with disabilities must comply with Section 28.141(4)e of the Zoning Code, which includes all applicable State accessible requirements.
- 30. Meet all Supplemental Regulations for vehicle-access service windows pursuant to Section 28.151, including bicyclist use of sales and service windows, which shall not be prohibited.

**Fire Department** (Contact Bill Sullivan, 261-9658)

Note: The Madison Fire Department does not object to this proposal provided the project complies with all applicable fire codes and ordinances

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

- 31. The Madison Water Utility shall be notified to remove the water meter prior to demolition. All wells located on this property shall be abandoned if no valid well operation permit has been obtained from the Madison Water Utility.

**Parks Division** (Contact Kay Rutledge, 266-4714)

32. Removal of existing street trees does not appear warranted; existing street trees shall be protected. Please include the following note on the site plan: "The contractor shall install tree protection fencing in the area between the curb and sidewalk and extend it at least 5 feet from both sides of the tree along the length of the terrace. No excavation is permitted within 5 feet of the outside edge of a tree trunk. If excavation within 5 feet of any tree is necessary, the contractor shall contact City Forestry (608-266-4816) prior to excavation to assess the impact to the tree and root system." Tree pruning shall be coordinated with City Forestry. Tree protection specifications can be found in Section 107.13 of City of Madison Standard Specifications for Public Works Construction. This development is within the Garner park impact fee district (SI29). Please reference ID# 13142 when contacting Parks Division staff about this project.

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

This agency did not provide comments for this request.