



## Report to the Plan Commission

March 7, 2011

**Legistar I.D. #21562**

**1336 Drake Street**

**Conditional Use Alteration Request**

Report Prepared By:  
Heather Stouder, AICP  
Planning Division Staff

**Requested Action:** Approval of a major alteration to an existing conditional use for an expanded seasonal outdoor eating area at a restaurant in the C1 (Limited Commercial) District.

**Applicable Regulations & Standards:** Section 28.12(11) provides the guidelines and regulations for the approval of conditional uses.

**Summary Recommendation:** The Planning Division recommends that the Plan Commission finds that the conditional use standards can be met and **approve** the request for the conditional use for an expanded seasonal outdoor eating area.

### Background Information

**Applicant/Property Owner:** Robert Shapiro; Sammy Aziz, LLC (ZuZu Café); 217 S Orchard St; Madison

**Proposal:** The applicant is requesting an alteration to an existing conditional use for an expanded outdoor eating area at a restaurant in the C1 (Limited Commercial) District.

**Parcel Location:** 1336 Drake Street is located at the northeast corner of Drake Street and South Randall Avenue, Aldermanic District 13 (Kerr); Madison Metropolitan School District.

**Existing Conditions:** The 5,500 square foot parcel includes a one-story, 1,900 square foot commercial building and an asphalt parking area for 5 vehicles in front of the building.

**Surrounding Land Use and Zoning:** Immediately adjacent to the east is a single-family home, also in the C1 (Limited Commercial) District. Parcels further to the east, as well as to the north and south, are a mix of single and two-family homes in the R3 (Single and Two-Family Residence District). Across South Randall Avenue to the west are two three-unit buildings in the R4 (General Residence) District and single-family homes in the R2 (Single-family Residence District). Diagonal from this property to the southwest is the Henry Vilas Zoo, in the Conservancy District.

**Adopted Land Use Plan:** The Comprehensive Plan (2006) recommends Neighborhood Mixed-Use (NMU) for this property. The Greenbush Neighborhood Plan (2008) recommends that if the ZuZu Café were to close, the uses on this property remain consistent with the C1 Zoning District, and may include a mixed-use building up to two stories.

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

**Public Utilities and Services:** The property is served by a range of urban services, and Metro Transit Routes 4 and 44 run on Mills Street, three blocks to the east.

**Zoning Summary:** The property is in the C1 (Limited Commercial) District.

Requirements	Required	Proposed
Lot Area	6,000 sq. ft.	5,412.5 sq. ft. (existing)
Lot width	50'	50'
Usable open space	N/A	N/A
Front yard	0'	Adequate
Side yards	0'	Adequate
Rear yard	10'	Adequate
Floor area ratio	3.0	Less than 1.0
Building height	N/A	N/A

### Site Design

No. Parking stalls	30% of capacity	Unknown (See Condition No. 20, p. 6)
Accessible stalls	2% of parking lot stalls	0 (See Condition No. 17, p. 5)
Loading	N/A	N/A
No. Bike Parking stalls	2	21 (See Condition No. 18, p. 5)
Landscaping	Yes	
Lighting	No	

### Other Critical Zoning Items

Urban Design	No
Utility Easements	Yes
Waterfront Development	No
Adjacent to park	No
Barrier free (ILHR 69)	Yes

Prepared by: Pat Anderson, Asst. Zoning Administrator

## Project Description

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The applicant proposes to replace the small 4-stall surface parking lot on the south side (front) of the building during the months of April through November each year for use as an expanded outdoor eating area for the ZuZu Café. This involves review by the Plan Commission for a major alteration to an existing conditional use for an outdoor eating area, as well as a new conditional use for a parking reduction exceeding 20 stalls.

### Expanded Outdoor Eating Area

The site plan submitted shows 12 additional tables, a small area designated as a children's play area, a planted berm on the west side, and a structured planter on the south side of the outdoor eating area. The arrangement of tables provides a clear pathway from the public sidewalk along Drake Street to the entrance. While not noted on the submitted plan, the applicant has indicated that the asphalt surface will be painted to delineate the pathway from the public sidewalk to the entrance. Further, the "temporary flower berm" on the western edge of the property will be enclosed within a wooden planter, to prevent erosion of soil onto the public sidewalk and into the outdoor eating area.

An existing fence just east of the eastern property line is owned and maintained by the neighboring property owner, providing a functional screening between the two properties. The proposal includes additional bicycle parking stalls placed to block the access driveways to the property. Since these areas are within the public right-of-way, an encroachment agreement is required.

The applicant has indicated that during the colder months, the site will be restored to its current state as a 4-stall surface parking lot. The bicycle parking and temporary planters, and tables will be removed and stored until the outdoor eating area reopens the following spring.

The ZuZu Café is currently open until 9:00 pm, and the applicant has requested that the hours for the expanded outdoor eating area remain the same. Outdoor seating would increase from the 16 existing seats along the west side of the building to a total of 64 seats. The applicant has indicated that no outdoor amplified sound would occur on the property.

### Parking Reduction

The current occupancy, both inside and outside, is approximately 65. With the expanded outdoor eating area shown, the applicant is requesting an additional 50, for an increased total occupancy of approximately 115 from the months of May through November. In this case, the number of stalls required is 30% of the total occupancy of the restaurant, which results in a parking requirement of

approximately 35 stalls. Thus, in the months when the proposed outdoor eating area is in use and there are no off-street parking spaces, the parking reduction requested is for 35 stalls.

### **Public Input**

Both the Vilas Neighborhood Association and Greenbush Neighborhood Association are supportive of the proposed expansion to the outdoor eating area (see enclosed e-mail communication). In a telephone call to staff, the owner of the adjacent property to the east (1330 Drake Street) expressed concerns about past issues with the applicant, including a lack of responsiveness about vegetation growing over the fence between the properties and into the public right-of-way. He suggested that the business should not be expanded, and may provide further comment to the Plan Commission either in writing or in person.

Note: Upon review of building inspection records, staff notes that since the applicant purchased the subject property in 2004, there have been four minor code violations at the property (tall grass/weeds, vegetation growing over the sidewalk, snow covering the accessible parking stall, and debris behind the building). In each case, compliance has been reached after one notice. There are no current notices or citations for the property.

### **Evaluation and Conclusion**

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On balance, the “summer” site plan proposed presents a positive improvement for the property and neighborhood, transforming a small surface parking area into an active space during a time of year when alternatives to driving to the site are more common.

The temporary planters and bicycle parking stalls provide screening from the street for customers, and are a welcome addition, so long as they can be feasibly removed each year when the site is restored to the small parking area. The applicant has indicated that the asphalt surface will remain throughout the year, although portions of it will be painted. Wood chips and sand may be brought in annually for the small children’s play area. Revised site plans shall include notation on the proposed temporary groundcover (painted asphalt, woodchips, sand, etc.). Further, as is the case with other conditional uses for seasonal outdoor eating areas within parking lots, the applicant should provide a second site plan showing a compliant parking lot in front of the building.

### **Conditional Use Standards**

Staff believes that the two conditional use standards most pertinent to this review are Standard No. 3 and Standard No. 10 as follows:

*Standard 3: That the uses, values, and enjoyment of other property in the neighborhood for purposes already established shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance, or operation of the conditional use.*

Staff recommends that outdoor amplified music be prohibited and that the outdoor eating area close by 9:00 pm each evening, so that noise from the additional customers will not have a significant impact on surrounding properties. Notably, the expanded outdoor eating area will be larger and closer to the adjacent residential property than the existing outdoor eating area. The zoning code would typically require a commercial business to provide screening along property lines shared with a residential district. In this case, the single-family home next door is actually in the C1 (Limited Commercial) district, so this requirement does not apply automatically. However, staff recommends that the Plan Commission add a condition to ensure that if the existing fence is removed, the applicant will build and maintain an opaque fence between the two properties to screen the outdoor eating area.

*Standard 10: That when applying the above standards to an application for a reduction of off-street parking requirements, the City Plan Commission shall consider and give decisive weight to all relevant facts, including but not limited to the following factors: availability and accessibility of alternative parking; impact on adjacent residential neighborhoods; existing or potential shared*

*parking arrangements; number of residential parking permits issued for the area; proximity to transit routes and/or bicycle paths and provision of bicycle racks; the proportion of total parking required that is represented by the requested reduction; the proportion of the total parking required that is decreased by Sec. 28.11(2)(a)3; the characteristics of the use, including hours of operation and peak parking demand times; design and maintenance of off-street parking that will be provided; and whether the proposed use is new or a small addition to an existing use.*

The applicant is proposing to eliminate all off-street parking during the warmer half of the year when the outdoor eating area is in use. As mentioned in the previous section, this necessitates a parking reduction of approximately 35 stalls. However, it is unlikely that the business will reach the desired new capacity for 115 people, and also unlikely that the parking demand at this location typically reaches the 35 stalls that would be required.

The applicant has indicated that a strong majority of current customers come to the site on foot or by bicycle, and that it has operated successfully for several years with only 4 parking spaces. While the surface parking will be maintained during the colder half of each year, the applicant believes that from a business perspective, an expanded outdoor eating area is significantly more advantageous during the warmer months than the 4 parking stalls would be.

While the new outdoor eating area will lead increased numbers of customers eating outdoors, the increased capacity may or may not lead to higher numbers of customers overall. If it does, staff believes that the applicant is proposing ample additional bicycle parking to accommodate customers bicycling to the site. For those that drive, on-street parking areas along Drake Street and South Randall Avenue provide for approximately 40-50 potential stalls within 2 blocks of the restaurant, most of which allow for only 2-hour parking between 8:00am and 6:00pm. There are no opportunities for shared parking nearby, and visitors to the Vilas Park and Zoo will be utilizing many of the same spaces.

This is an RP3 area, which means that area residents may park on the street for longer than two hours otherwise allowed. However, most residential properties in this area have off-street parking, so competition for on-street spaces between residential properties and the subject property should be minimal.

The property is approximately ½ mile away from the Southwest Bike Path, and the local streets easily support bicycling for most cyclists. The temporary bicycle-parking stalls proposed for the outdoor eating area should be a sufficient supply, and the enhanced pedestrian connection from Drake Street to the building entrance makes for an even more attractive environment for pedestrians walking to the business from the neighborhood or from Vilas Park across the street. After careful consideration of the context, staff believes that Standard No. 10 can be met.

Planning Division staff recommends that the Plan Commission finds that the conditional use standards can be met, and **approve** the request subject to input at the public hearing and conditions from reviewing agencies.

## **Recommendations and Proposed Conditions of Approval**

Major/Non-Standard Conditions are shaded

### **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 request subject to input at the public hearing and the following conditions:

### **Planning Division** (Contact Heather Stouder, 266-5874)

1. When the outdoor eating area is closed each year, the tables and chairs shall be stored within an enclosed area or off the premises.

2. There shall be no outdoor amplified sound, and use of the outdoor eating area shall cease at 9:00pm daily.
3. If the existing fence between this property and the property to the east is removed in the future, the applicant (or future owner of the subject property) is required to build and maintain an opaque fence along this shared property line, as long as the outdoor eating area is in front of the building. At that time, detail for the new fence shall be submitted to Zoning staff and reviewed as a minor alteration.
4. Site plans submitted for staff review and sign-off shall include annotation on the proposed groundcover for the temporary outdoor eating area.
5. Plans submitted for staff review and sign-off will include a second site plan with a compliant parking area for the designated months that the outdoor eating area will not be in use.

***The following conditions have been submitted by reviewing agencies:***

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

6. Engineering Mapping asks that a note be added to the site plan clarifying the permitted seasonal temporary bicycle parking within the existing driveway aprons from May 1 thru Nov 1 and reference made to Real Estate Project No 9568 that has been established for the administration and recording of the required Encroachment Agreement.
7. This plan is only acceptable for May to November annually. If the depicted plan becomes permanent, the drive aprons would need to be removed, and the curb and gutter would need to be replaced at each drive apron with full 6" curb head.
8. The temporary bike parking shall consist of traffic engineering acceptable bike racks.
9. 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 Impervious Areas (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 [addressing@cityofmadison.com](mailto:addressing@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/pavement during construction will require a new CAD file (POLICY and MGO 37.09(2) & 37.05(4)).

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

10. The applicant shall submit two site plans for approval according to MGO. One site plan shall be from November 1, to May 1 with parking and second site plan from May 1, to November 1, both plans according to MGO.

11. The approval of this facility does not include the approval of the as proposed improvements or use of temporary bike parking in the street right-of-way. The applicant should remove all proposed improvements or submit for encroachment in the right-of-way on the site plan sheets or note: "All right-of-way improvements use require separate approval by the Board of Public Works and Common Council for the public right-of-way changes to be requested by the developer."
12. The applicant shall indicate the type of City approved bicycle racks to be installed and locations on site and proposed in the right-of-way. The bike rack should be located by the entrances to the building.
13. When the applicant submits final plans of one contiguous plan 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, showing all easements, all pavement markings, building placement, and stalls, existing driveway approaches to lot, signage, percent of slope, vehicle routes, dimensions of radii, aisles, driveways, stalls including the two (2) feet overhang, and a scaled drawing at 1" = 20'.
14. The intersection shall be so designed so as not to violate the City's sight-triangle preservation requirement which states that on a corner lot no structure, screening, or embankment of any kind shall be erected, placed, maintained or grown between the heights of 30 inches and 10 feet above the curb level or its equivalent within the triangle space formed by the two intersecting street lines or their projections and a line joining points on such street lines located a minimum of 25 feet from the street intersection in order to provide adequate vehicular vision clearance.
15. The applicant shall design the surface parking areas for stalls and backing up according to Figures II of the ordinance using the 9' or wider stall for the commercial/retail area.
16. 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)

17. Parking requirements for persons with disabilities must comply with MGO Section 28.11(3)6.m, which includes all applicable State accessibility requirements, including but not limited to:
  - a) Provide a minimum of one van accessible stall striped per State requirements if a parking stall is provided. This stall shall be 8' wide with an 8' striped out area adjacent.
  - b) Show signage at the head of the stalls.
  - c) Show the accessible path from the stalls to the building.
18. Bike parking shall comply with MGO Section 28.11. Provide 2 bike parking stalls in a safe and convenient location on an impervious surface to be shown on the final plan. The bike racks shall be securely anchored to the ground or building to prevent the racks from moving. NOTE: A bike-parking stall is two feet by six feet with a five foot access area.
19. Meet applicable building and fire codes for the additional outdoor capacity and for ingress and egress of the establishment with the areas and uses for the site. Occupancy is established by the Building Inspection Unit. Contact Mike Van Erem at 266-4559 to help facilitate this process. Contact the City Clerk regarding the "change of licensed premise" to your liquor license.
20. Obtain a parking reduction of greater than 20 stalls. A thirteen stall parking reduction was granted to this property on 12/29/04. A further reduction (total reduction of approximately 35 stalls, to be determined by approved occupancy) is being requested with this application, and must be approved by the Plan Commission.
21. No portion of the site plan may change without Plan Commission approval, however, the Zoning Administrator may issue permits for minor alterations or additions which are approved by the Director of Planning and Community and Economic Development and are compatible with the concept approved by the City Plan Commission and the standards in 28.12(11)(g).

**Fire Department** (Contact Bill Sullivan, 266-4420)

22. The Madison Fire Department does not object to this proposal provided it complies with all applicable fire codes and ordinances.

**Real Estate** (Contact Jerry Lund, 267-8718)

23. Prior to any change within the public right of way, the applicant shall work with Real Estate staff to complete an encroachment agreement for the proposed bicycle racks. The racks shall meet Traffic Engineering requirements.

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

This agency did not submit a response for this request.

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

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.