



Project Address: 4323 East Towne Boulevard
Application Type: Conditional Use
Legistar File ID # [30658](#) and [29803](#)
Prepared By: Kevin Firchow, AICP, Planning Division
Report Includes Comments from other City Agencies, as noted

Summary

Applicant: John Sheehan and Lynn Reimer; Roca Restaurant Group; 9201 East Bloomington Freeway; Minneapolis, MN 55420
Contact: Gregg Hackett; Partners & Sirny Architects; 212 West Franklin Ave; Minneapolis, MN 55404
Property Owner: CBL & Associates Properties c/o Tom Reddy; 2030 Hamilton Place Boulevard Suite 500; Chattanooga, TN 37421

Requested Action: The applicant requests conditional use approval to amend the existing Planned Multi-Use Site and to allow outdoor seating.

Proposal Summary: The applicant proposes to construct a 7,864 square foot restaurant on a lot along the East Towne frontage road which is now utilized for surface parking. As part of this proposal, the applicant also requests approval to have outdoor dining.

Applicable Regulations & Standards: This proposal is subject to the standards for Conditional Uses.

Review Required By: Urban Design Commission and Plan Commission

Summary Recommendation: The Planning Division recommends that the Plan Commission find that the demolition and conditional use standards are met and **approve** the request to construct a restaurant with an outdoor eating area at 4323 East Towne Boulevard at East Towne Mall. This recommendation is subject to input at the public hearings and the conditions recommended by the reviewing agencies.

Background Information

Parcel Location: The subject property is located on the East Towne Mall development, fronting onto East Towne Boulevard (a public street) and East Towne Way (a private mall ring-road). The site is within Aldermanic District 17 and within the limits of the Sun Prairie School District.

Existing Conditions and Land Use: The subject site is currently developed as a surface parking lot. The site is surrounded on three sides by public and private streets.

Surrounding Land Use and Zoning:

North: Commercial development lining East Washington Avenue, zoned CC (Commercial Center District);

South: East Towne Mall, zoned CC (Commercial Center District);

East: Surface Parking Lots serving East Towne Mall, zoned CC; and

West: Restaurant with other commercial development beyond, zoned CC.

Adopted Land Use Plan: The Comprehensive Plan recommends regional mixed-use development.

Zoning Summary: The property is zoned CC (Commercial Center District). Comments were not received in time to be included in this report.

Environmental Corridor Status: The subject site is not located in a mapped environmental corridor.

Public Utilities and Services: This property is served by a full range of urban services.

Project Description

The applicant requests approval to construct a new one-story, 7,864 square foot restaurant on the edge of East Towne Mall-owned property. This portion of the property is now used as a surface parking lot serving the mall. As part of this proposal, the applicant also seeks approval to operate an outdoor eating area with approximately 82 seats.

The proposed building fronts onto East Towne Way, the mall's private ring road. This side of the building includes the main building entrance and accessible parking. The opposite side of the building faces East Towne Boulevard, a public street. This side of the building is setback about 15 feet from the property line and features a secondary public entrance, along with outdoor dining space. The majority of the outdoor dining space is proposed along the building's south side which faces a private street connecting East Towne Boulevard and East Town Way.

The site plan includes several improvements. A private sidewalk connection is made to connect the street-oriented entrance to the East Towne Boulevard public sidewalk. Due to changes in grade, this connection runs parallel to the building before angling toward the sidewalk. A retaining wall, up to two feet in height, will be constructed adjacent to the public sidewalk. Details on the retaining wall have not been provided, but are recommended as a condition of approval.

The reconfigured parking lot includes 137 parking stalls and 14 bike parking stalls. The parking lot will be improved with the addition of a mid-parking landscaping which includes a pedestrian path winding through the islands. (Note, that the surface material is not clearly labeled on the plans). This improvement breaks the parking field up into smaller "pods" as required by the zoning ordinance.

The building itself is clad in a combination of brick and clapboard siding. In addition to the clear windows provided along the dining areas, spandrel glass with decorative shutters further articulate the street-facing façade.

Analysis and Conclusion

This proposal is subject to the standards for Conditional Uses [Section 28.183]. Two conditional uses are sought. The first is an amendment to the East Towne Mall development, which is approved as a conditional use "multi-use site." Major alterations to such developments, such as this, require a recommendation from the Urban Design Commission and Plan Commission approval. The second conditional use is to operate an outdoor eating area.

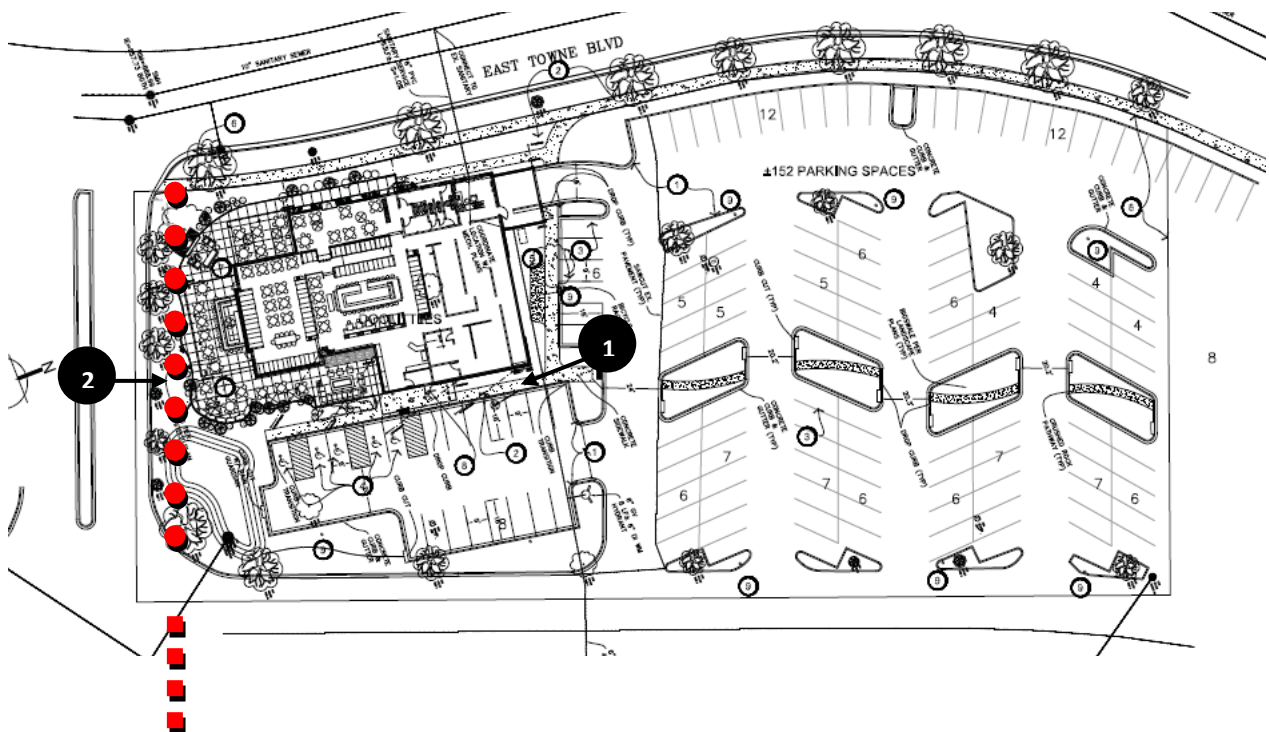
Conditional Use Approval Standards

Staff believes that the conditional use standards can be met. In regards to the request for outdoor eating, staff believes the outdoor seating area, while relatively large, will have minimal impacts on surrounding properties. There are no residential uses within close proximity to this site. Staff does not believe further conditions are necessary for that portion of the request.

In regards to the larger alteration to the "Planned Multi-Use Site," staff first acknowledges that the new building and site amenities represent a significant improvement over its current use as a surface parking lot. Staff has a few comments for consideration by both the Urban Design Commission and Plan Commission related to meeting the below standards.

Standard 5 states that "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." In regards to that standard, staff recommends the following pedestrian-related improvements, noting that the site sits directly across from a recently installed bus stop on the private inner ring-road. The general location of these recommendations are noted on the below graphic.

1. Widen the private sidewalk leading from the parking lot to the main door from five (5) to six (6) feet. Currently, there is nine feet between the building and the parking stalls. This would result in the associated landscape area being reduced in size by roughly one foot.
2. Install a five (5) foot wide sidewalk adjacent to existing trees along the mall ring-road. (Between the existing trees and the proposed patio area). Minimally, staff recommends that a sidewalk be extended from East Towne Boulevard to East Towne Way (private street). A cross walk should be added to connect to the sidewalk on the opposite side of East Towne Way.
3. Provide a direct pedestrian route connecting the main building entrance to the bus stop on the opposite side of East Towne Way.



Standard 9 states that when applying the above standards to any new construction of a building or an addition to an existing building, the Plan Commission shall bear in mind the statement of purpose for the zoning district and also notes that the item may be referred to the UDC for an advisory opinion. In this case, UDC is required to provide an advisory opinion on the proposal. Staff's primary question on the building is the prominence of the public street-facing entrance (East Towne Boulevard), which staff believes is somewhat understated. The applicant has indicated they are amenable to adding a bench or landscape feature to address this concern. During earlier discussions, they have indicated a strong preference to not alter the building. Staff is raising this as a discussion point to which the Urban Design Commission can further advise the Plan Commission.

Conclusion

The Planning Division believes the applicable standards can be met. Staff is supportive of this project which will develop an underutilized parking lot. The applicant has made several improvements to both the building and site to address earlier concerns raised by staff. At this time, the Planning Division recommends that additional pedestrian connections be provided. These should be carefully evaluated by both the Urban Design Commission and Plan Commission.

Recommendation

Planning Division Recommendation (Contact Kevin Firchow, 267-1150)

The Planning Division recommends that the Plan Commission find that the demolition and conditional use standards are met and **approve** the request to construct a restaurant with an outdoor eating area at 4323 East Towne Boulevard at East Towne Mall. This recommendation is subject to input at the public hearings and the conditions recommended by the reviewing agencies.

Recommended Conditions of Approval

Major/Non-Standard Conditions are Shaded

Planning Division (Contact Kevin Firchow, 267-1150)

1. That the proposed 5 foot sidewalk along the front (east) side of the building, connecting the parking lot to the main building entrance be widened to 6 feet. Details shall be approved by the Planning Division and Traffic Engineering Division.
2. That the applicant installs a five (5) foot wide sidewalk adjacent to existing trees along the mall ring-road on the west side of the property. (Between the existing trees and patio area). Details shall be approved by the Planning Division and Traffic Engineering Division.
3. That a direct pedestrian route connecting the main building entrance to the bus stop on the opposite side of East Towne Way. Details shall be approved by the Planning Division and Traffic Engineering Division.
4. That the details of the street-facing retaining wall are provided for staff approval.
5. That all surface materials are clearly labeled, including the pathways in the widened parking lot tree islands, for staff approval. The applicant has clarified that these walkways are proposed as gravel.

6. That existing trees shown within parking lot drive-aisles or sidewalks be removed, as these are believed to be shown in error.

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

7. If the intent is to lease the land for this development, provide a Register of Deeds recorded copy of the lease to Engineering Mapping (Lori Zenchenko – lzenchenko@cityofmadison.com) and Assessor Office (Maureen Richards – mrichards@cityofmadison.com) prior to issuance of building permits.
 8. If the intent is to sell the land to facilitate the proposed development, a Certified Survey Map (CSM) application shall be made to City Planning for review, approval and recording with the Register of Deeds prior to issuance of building permits.
 9. If ownership transfer and CSM is the preferred owner/applicant solution for this project, note the CSM shall be completed and recorded with the Register of Deeds (ROD) prior to issuance of BUILDING permits. When the recorded CSM image is available from the ROD, the Assessor's Office can then create the new Address-Parcel-Owner (APO) data in GEO so that the Accela system can upload this data and OCCUPANCY permit issuance made available for this new land record.
10. The applicant shall replace all sidewalk and curb and gutter which abuts the property which is damaged by the construction or any sidewalk and curb and gutter which 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. (POLICY)
 11. All work in the public right-of-way shall be performed by a City licensed contractor. (MGO 16.23(9)(c)5) and MGO 23.01)
 12. All street tree locations and tree species within the right of way shall be reviewed and approved by City Forestry. Please submit a tree planting plan (in PDF format) to Dean Kahl, of the City Parks Department - dkahl@cityofmadison.com or 266-4816. Approval and permitting of any tree removal or replacement shall be obtained from the City Forester and/or the Board of Public Works prior to the approval of the site plan. (POLICY)
 13. All damage to the pavement on East Towne Blvd, adjacent to this development shall be restored in accordance with the City of Madison's Pavement Patching Criteria. For additional information please see the following link <http://www.cityofmadison.com/engineering/patchingCriteria.cfm> (POLICY)
 14. 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.
 15. For Commercial sites < 1 acre in disturbance the City of Madison is an approved agent of the Department of Commerce and WDNR. As this project is on a site with disturbance area less than one (1) acres, 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. (NOTIFICATION)

16. Prior to approval, this project shall comply with Chapter 37 of the Madison General Ordinances regarding stormwater management. Specifically, this development is required to a) Reduce TSS off of the proposed development by 80% when compared with the existing site. b) Provide oil & grease control from the first 1/2" of runoff from parking areas; and c) 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 the Madison General Ordinances.
17. 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, and all other levels (contours, elevations, etc) are not to be included with this file submittal.

NOTE: Email file transmissions preferred 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))
18. The applicant shall submit prior to plan sign-off, electronic copies of any Stormwater Management Files including: a) SLAMM DAT files, b) RECARGA files, c) TR-55/HYDROCAD/Etc..., and d) Sediment loading calculations.
19. All outstanding Madison Metropolitan Sewerage District (MMSD) and City of Madison sanitary sewer connection charges are due and payable prior Engineering 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 two (2) working days prior to requesting City Engineering signoff. (MGO 16.23(9)(d)(4))
20. 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. (POLICY)

Traffic Engineering Division (Contact Eric Halvorson, 266-6572)

21. When the applicant submits 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 two (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.

24. When site plans are submitted for approval, the developer shall provide a recorded copy of the reciprocal land agreement for passage over, upon, across and through the facilities and ingress and egress for each building, loading and parking site. This land agreement for vehicular and pedestrian access shall be a perpetual, non exclusive, unimpeded or unobstructed land agreement for the lots in the commercial site.

Zoning Administrator (Contact Pat Anderson, 266-5978)

Comments were not received in time to be included within this report.

Fire Department (Contact Bill Sullivan, 261-9658)

25. Coordinate address with City Engineering.

Water Utility (Contact Dennis Cawley, 261-9243)

26. The Madison Water Utility shall be notified to remove the water meter prior to demolition. This property is not in a wellhead protection district. All wells located on this property shall be abandoned if no valid well operation permit has been obtained from the Madison Water Utility. The Water Utility will not need to sign off the final plans, and will not need a copy of the approved plans.

Parks Division (Contact Kay Rutledge, 266-4714)

27. Existing street trees shall be protected. Please include the following note on the site plan: 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, contractor shall contact City Forestry (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
<http://www.cityofmadison.com/business/pw/documents/StdSpecs/2013/Part1.pdf>.

28. Please reference ID# 13138 when contacting the Parks Division about this project.

29. Approval of plans for this project does not include any approval to prune, remove or plant trees in the public right-of-way. Permission for such activities must be obtained from the City Forester, 266-4816.

Metro Transit (Contact Tim Sobota, 261-4289)

This agency did not provide comments for this request.