



Project Address: 7401 Mineral Point Road
Application Type: Conditional Use
Legistar File ID # [31918](#) and [31936](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted.

Summary

Applicant: Trey Conway, CBL & Associates Properties, Inc.; 2030 Hamilton Place Blvd., Suite 500; Chattanooga, Tennessee.

Agent: Justin Frahm, JSD Professional Services, Inc.; 161 Horizon Drive, Suite 101; Verona.

Property Owner: Spirit SPE Portfolio 2006-1, LLC; 7401 Mineral Point Road; Madison.

Requested Action: Approval of a conditional use to allow a restaurant and a restaurant with a vehicle access sales and service window to be constructed in a parking lot at 7401 Mineral Point Road at West Towne Mall.

Proposal Summary: The applicant proposes construction of 2 one-story restaurants on an existing surface parking lot located along the Mineral Point Road frontage of the West Towne Mall complex. The eastern of the 2 restaurants, shown on the site plan as “Restaurant A”, will be an approximately 6,500 square-foot Bonefish Grill. “Restaurant B” is proposed as a 5,000 square-foot Jason’s Deli, which includes a vehicle access sales and service window along the east wall of the proposed restaurant. Both restaurants will have outdoor eating areas. The applicant wishes to proceed in February 2014, with completion scheduled by December 2014.

Applicable Regulations & Standards: Section 28.137(2)(e) identifies a planned multi-use site containing more than 40,000 square feet of gross floor area and where 25,000 square feet of gross floor area is designed or intended for retail use or for hotel or motel use as a conditional use and be subject to review by the Urban Design Commission under the provisions of Section 33.24(4)(f). 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 subject to supplemental regulations in Section 28.151 of the Zoning Code. Section 28.183 of the Zoning Code provides the process and standards for the approval of conditional use permits.

Review Required By: Urban Design Commission and Plan Commission

Summary Recommendation: The Planning Division recommends that the Plan Commission find the standards met and **approve** a conditional use to allow a restaurant and a restaurant with a vehicle access sales and service window to be constructed in a parking lot at 7401 Mineral Point Road at West Towne Mall following a recommendation by the Urban Design Commission and 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 proposed restaurants will be constructed on approximately 2.2 acres of a 9.73-acre parcel located on the south side of Mineral Point Road just west of the Westfield Road entrance into the West Towne Mall complex; Aldermanic District 9 (Skidmore); Madison Metropolitan School District.

Existing Conditions and Land Use: The area on which the proposed restaurants will be built is a surface parking lot that extends from the Shopko department store on the west to the Westfield Road entrance into the mall. The site and all of West Towne Mall are zoned CC (Commercial Center District).

Surrounding Land Use and Zoning: The site of the two proposed restaurants is approximately 300 feet from the JC Penney's store at the north end of the West Towne Mall building. Shopko and Barnes and Noble are located to the west across the parking field on which the restaurants will be built. The Westfield Road entrance into the mall complex forms the eastern edge of the subject site, with the Firestone and Olive Garden pad sites located further to the east. All of West Towne is zoned CC (Commercial Center District). Sunset Memory Gardens, zoned CN (Conservancy District), is located across Mineral Point Road from the site of the proposed restaurants.

Adopted Land Use Plan: The Comprehensive Plan identifies the subject site and the overall West Towne Mall complex for Regional Mixed-Use and transit-oriented development.

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

Requirements	Required	Proposed
Maximum Front Yard	100	92' from Mineral Point Road
Side Yards	5' for one-story buildings	Adequate
Rear Yard	Lesser of 20% of lot depth or 20'	Adequate
Building Height	5 stories and 68 feet	Rest. A: 1 st., 26'; Rest. B: 1-st., 19'
No. of Parking Stalls	No minimum. Maximum to be determined by Zoning Administrator	189, including 14 of existing retail
No. of Accessible Parking Stalls	6	9 (See conditions)
Maximum Lot Coverage	85%	Show on final plan (See conditions)
No. Bike Parking Stalls	33 (29 for restaurants, 4 for retail)	16 (See conditions)
Loading	0	0
Building Form	Free-standing commercial building	Bldg: OK; Materials: (See conditions)
Other Critical Zoning Items		
Yes:	Urban Design (planned multi-use site), Barrier Free	
No:	Wellhead Protection, Floodplain, Utility Easements, Landmarks, Waterfront Development	
Prepared by: Pat Anderson, Asst. Zoning Administrator		

Environmental Corridor Status: The property is not located within a mapped environmental corridor (Map B9).

Public Utilities and Services: The site is served by a full range of urban services, including seven-day Metro Transit service.

Project Description

The applicant is requesting approval of a conditional use to construct two one-story restaurants on an underutilized surface parking lot located along the northern edge of the West Towne Mall complex adjacent to Mineral Point Road and west of the Westfield Road entrance. The proposed restaurants will be constructed on approximately 2.2 acres of a 9.73-acre parcel that also includes a Shopko department store. A three-lot Certified Survey Map has been submitted separately for approval that would create a lot for each restaurant as well as the Shopko.

The eastern of the 2 restaurants, shown on the site plan as “Restaurant A”, will be an approximately 6,500 square-foot Bonefish Grill with seating for approximately 244 persons inside and 38 on an outdoor patio to be located at the northeastern corner of the building. “Restaurant B” is proposed as a 5,000 square-foot Jason’s Deli, which includes seating for 150-160 persons inside and up to 64 on an outdoor patio located along the north wall facing Mineral Point Road. Both restaurants will include entrances facing Mineral Point Road as required by the Zoning Code. Plans for Restaurant B also include a vehicle access sales and service window along the east wall of the building as well as an indoor food pick-up area separate from the dining room. Queuing for the drive-thru service will extend along the eastern and southern walls and exit to a single aisle of parking proposed between the proposed buildings and Mineral Point Road.

Access to the restaurant sites will be from the adjacent Shopko and Steinhafel’s Mattress parcels located to the west and south, respectively. Neither restaurant will have direct vehicular access to Mineral Point Road. The site plans submitted for the two-restaurant project calls for 167 parking stalls to be provided to serve the restaurants as well as the Steinhafel’s Mattress site to the south, which will be reconfigured as part of this approval. No changes to the Shopko parking area west of the restaurant sites are proposed. Sidewalk connections are proposed to both the public sidewalk along Mineral Point Road and the private sidewalk located along the west side of the Westfield Road entrance into the mall complex.

Supplemental Regulations

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.

Analysis and Conclusion

In reviewing the proposed development against the conditional use standards, the Planning Division believes that the standards can substantially be met. The proposed restaurants represent a well-designed infill use of an underutilized portion of the West Towne Mall complex that will replace a lightly used parking area with buildings that should enhance the appearance of the mall complex and create a sense of arrival to the West Towne area

while increasing the level of activity along this section of Mineral Point Road where there is currently very little. Staff feels that projects such as the one proposed continue to incrementally realize the recommendations for West Towne in the Comprehensive Plan, which recommends that the center gradually evolve into a regional mixed-use and transit-oriented development.

Staff also believes that the supplemental regulations for vehicle access sales and service windows enumerated in the preceding section are met for Restaurant B. The proposed drive-thru window is well-integrated into the plans for the restaurants in a fashion that should have a limited impact on the aesthetic of the overall proposal.

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 conditional use to allow a restaurant and a restaurant with a vehicle access sales and service window to be constructed in a parking lot at 7401 Mineral Point Road at West Towne Mall following a recommendation by the Urban Design Commission and subject to input at the public hearing and the following conditions:

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

1. Final plan sets shall provide detail and show compliance with the maximum lot coverage in CC zoning district for the two restaurants and new parking area.
2. The project boundaries on the site plans (Sheet C-1.0 and C-2.0) and landscaping plan (Sheet L-1.0) shall be revised to show the entire Steinhafel's Mattress site, including the building and full parking area.
3. A plan shall be included with the final plans for the proposed restaurants that shows the Shopko and its remaining parking field and includes the existing driveways to Mineral Point Road and West Towne Way (private ring road, located south of the Steinhafel's Mattress site). This plan shall show the direction of all drive aisles and the location of all existing traffic control measures (speed humps, stop signs, etc.).
4. The exterior of Restaurant A/ Bonefish Grill shall be revised to conform to the Building Materials table (Table 28D-1) in Section 28.060(2)(g) of the Zoning Code, which does not allow synthetic or hand-laid stucco as a "middle" material.

The following conditions of approval have been submitted by reviewing agencies:

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

5. The pending Certified Survey Map (CSM) for this property shall be completed and recorded with the Dane County Register of Deeds prior to issuance of building permits.
6. The easterly restaurant's (Bonefish Grill) address is 7345 Mineral Point Road. The westerly restaurant's (Jason's Deli) address is 7349 Mineral Point Road.
7. Remove reference to "Westfield Road" on all plan sheets. S. Westfield Road does not extend into West Towne's property.

8. Dimensions of the lots of the proposed CSM shall be shown on the site plan. Also all easements, existing and those to be recorded, shall be shown, dimensioned and noted on the site plan (only existing conditions does not suffice).
 9. The private ingress/egress easement over Lot 1 of the proposed CSM, the 30-foot wide Private Utility Easement between Lots 2 and 3 (this site), and the ingress/egress easement over CSM 13443 and the West Towne Mall lands (to the south and east of this site) shall be executed and recorded prior to issuance of building permits.
 10. A private common access/parking agreement to address vehicular and pedestrian movement between Lots 2 and 3 of the proposed CSM (this site) and also Lot 1 of Certified Survey Map 13443 (adjacent site to south) shall be executed and recorded prior to issuance of building permits.
 11. A common storm sewer/storm drainage easement/agreement for common private drainage and storm sewer facilities between Lots 1, 2 and 3 of the proposed CSM (this site and Shopko site to the west) shall be executed and recorded prior to issuance of building permits.
 12. Provide a traffic control plan to be approved by the City Engineer for utility connections in Mineral Point Road.
 13. A common sanitary sewer easement/ agreement for common the common private sanitary sewer serving the proposed restaurants shall be drafted and recorded and the recording data placed on the proposed CSM prior to the CSM being recorded.
 14. Per the agreement by the property owner, the applicant shall convey public access easements for public sanitary sewer, storm sewer and water main for the property at West Towne Mall prior to the City Engineering Division sign off of the CSM.
15. The site plan shall identify lot and block numbers of recorded Certified Survey Map or plat.
 16. The applicant's project requires the minor restoration of the street and sidewalk. The applicant shall obtain a Street Excavation Permit for the street restoration work, which is available from the City Engineering Division. The applicant shall pay all fees associated with the permit including inspection fees (per MGO Section 16.23(9)(d)(6)).
 17. 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.
 18. All work in the public right of way shall be performed by a City-licensed contractor.
 19. 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 Division - 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.

20. All damage to the pavement on Mineral Point Road adjacent to this development shall be restored in accordance with the City's Pavement Patching Criteria.
21. The plan set shall be revised to show a proposed private internal drainage system on the site. This information shall include the depths and locations of structures and the type of pipe to be used.
22. 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.
23. Effective January 1, 2010, the Department of Commerce's authority to permit commercial sites, with over 1 acre of disturbance, for stormwater management and erosion control has been transferred to the Wisconsin Department of Natural Resources (WDNR). The WDNR does not have an authorized local program transferring this authority to the City of Madison. The City of Madison has been required by the WDNR to continue to review projects for compliance with NR216 and NR-151 but a separate permit submittal is now required to the WDNR for this work as well. The City of Madison cannot issue our permit until concurrence is obtained from the WDNR via their Notice of Intent Permit (NOI) or Water Resources Application for Project Permits (WRAPP) permit process. As this site is greater than 1 acre, the applicant is required by State Statute to obtain a WRAPP from the WDNR, prior to beginning construction. Contact Eric Rortvedt at 273-5612 of the WDNR to discuss this requirement.
24. This development includes multiple building permits within a single lot. The City Engineer and/or the Director of the Building Inspection Division may require individual control plans and measures for each building.
25. The lots within this site plan are inter-dependent upon one another for stormwater runoff conveyance, and/or a private drainage system exists for the entire site an agreement shall be provided for the rights and responsibilities of all lot owners. Said agreement shall be reviewed and placed on file by the City Engineer, referenced on the site plan and recorded at the Dane County Register of Deeds.
26. 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.
27. The plan set shall be revised to show more information on proposed drainage for the site. This shall be accomplished by using spot elevations and drainage arrows or through the use of proposed contours. It is necessary to show the location of drainage leaving the site to the public right of way. It may be necessary to provide information off the site to fully meet this requirement.
28. 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. 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.

29. 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).
30. 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.
31. 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 (261-9688) to obtain the final MMSD billing a minimum of 2 working days prior to requesting City Engineering Division signoff.
32. 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.
33. 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)

34. The applicant shall show the order board location on the site plan for the vehicle service window along with vehicle queuing.
 35. The applicant shall provide a 10-foot clear visibility triangle where vehicle service window drive intersects walkway in front of the building to insure visibility of pedestrians using the walkway. This vision triangle shall be shown on the final plans.
36. 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.
 37. 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.

38. Public signing and marking related to the development may be required by the City Traffic Engineer for which the developer shall be financially responsible.
39. All parking facility designs shall conform to the standards in MGO Section 10.08(6).

Zoning Administrator (Contact Pat Anderson, 266-5978)

40. 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.
41. 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.
42. Provide a minimum of 33 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). Provide details of bike racks to be used.
43. Exterior lighting provided shall be in accordance with MGO Section 10.085. Provide an exterior lighting plan and fixture cut sheets, with the final plan submittal.
44. 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.
45. 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.
46. Rooftop screening appears to be provided by parapet, provide details that comply with MGO Section 28.060(2)(f).
47. Provide details and analysis that the project meets the design standards of subject to MGO Section 28.071(3), including but not limited to percentage of openings as required in 28.071(3)(e) and full color elevations including building materials subject to table 28E-1.

Fire Department (Contact Bill Sullivan, 261-9658)

48. Provide fire apparatus access as required by IFC 503 2012 edition, MGO Section 34.503.

Water Utility (Contact Dennis Cawley, 261-9243)

49. Each lot/ building shall have a separate water service lateral connected to a public water main. The Water Utility will not need to sign off the final plans, and will not need a copy of the approved plans.
50. 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)

This agency did not provide comments for this request.

Metro Transit (Contact Tim Sobota, 261-4289)

This agency did not provide comments for this request.