

## PLANNING DIVISION STAFF REPORT

April 20, 2015

PREPARED FOR THE PLAN COMMISSION



**Project Address:** 7202 Mineral Point Road (9<sup>th</sup> Aldermanic District, Alder Skidmore)

**Application Type:** Demolition and Conditional Use

**Legistar File ID #:** [37604](#)

**Prepared By:** Heather Stouder, AICP, Planning Division  
Report Includes Comments from other City Agencies, as noted

### Summary

**Applicant/Property Owner:** Culver Franchising System, Inc.; 1240 Water St., Prairie du Sac, WI, 53578

**Project Contact:** Steve Datka, AIA; Culver Franchising System, Inc.; 1240 Water St., Prairie du Sac, WI, 53578

**Property Owner:** NADD1 LLC; 2133 Liverty Dr., Cottage Grove, WI, 53527

**Requested Action:** Approval of the demolition of a one-story restaurant building and a conditional use for construction of a new restaurant building with an outdoor eating area in the Suburban Employment (SE) District.

**Proposal Summary:** The applicant proposes to demolish a 6,237 square foot restaurant building constructed in 1980 for construction of a 4,704 square foot restaurant building with a drive-through facility and an outdoor eating area.

**Applicable Regulations & Standards:** This proposal is subject to the standards for demolition (MGO Section 28.185) and conditional uses (MGO Section 28.183).

**Review Required By:** Plan Commission (PC)

**Summary Recommendation:** The Planning Division recommends that the Plan Commission find that the demolition and conditional use standards can be met and **approve** the request at 7202 Mineral Point Road. This recommendation is subject to input at the public hearing and the conditions recommended by the Planning Division and other reviewing agencies.

### Background Information

**Parcel Location:** The property is on the north side of Mineral Point Road between South Westfield Road and South Gammon Road; Aldermanic District 9 (Skidmore); Madison Metropolitan School District.

**Existing Conditions and Land Use:** The 1.1-acre site has an existing one-story, 6,237 square foot restaurant building. The building was constructed in 1980, and is surrounded by an asphalt surface parking with a total of 57 stalls, set back approximately 15 feet from the sidewalk along Mineral Point Road.

#### **Surrounding Land Use and Zoning:**

North: 2-story office building in the SE District

East: Medical Clinic in the SE District

South: Across Mineral Point Road, West Towne Mall in the Commercial Center (CC) District.

West: Anchor Bank, in the SE District

**Adopted Land Use Plan:** The Comprehensive Plan (2006) recommends Employment uses for this property.

**Zoning Summary:** The property is in the Suburban Employment (SE) District.

Requirements	Required	Proposed
Lot Area (sq. ft.)	20,000 sq. ft.	47,374 sq. ft.
Lot Width	65'	187'
Front Yard Setback	None	46.5'
Side Yard Setback	15'	57.9' L/ 79' R
Rear Yard Setback	30'	96.7'
Maximum Lot Coverage	75% (35,530.5 sq. ft.)	37,050 sq. ft.
Minimum Building Height	22' measured to building cornice	1 story/ 22' to building cornice
Maximum Building Height	5 stories/ 68'	

Site Design	Required	Proposed
Number Parking Stalls	15% of capacity minimum- 123 persons (18) 40% of capacity maximum- 123 persons (49)	51
Accessible Stalls	Yes	3
Number Bike Parking Stalls	5% of capacity- 123 persons (6)	10
Landscaping	Yes	Yes
Lighting	Yes	Yes
Building Forms	Yes	Yes, Free-Standing Commercial Building

**Other Critical Zoning Items:** Barrier Free (ILHR 69); Utility Easements

**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, including Metro Transit Routes 14 and 67 running along Mineral Point Road.

## Project Description, Analysis, and Conclusion

The applicant proposes to demolish the existing one-story, 6,237 square foot restaurant building occupied by "Old Chicago's", and to construct a new one-story 4,704 square foot restaurant building. As proposed, the site would have 51 automobile parking stalls and a drive-through facility on the west side of the building. Existing access driveways to the property are proposed to remain – one coming from Mineral Point Road on the south side, and two from a private street on the north side of the property.

The proposed building is placed near the center of the site, but shifted approximately 20 feet closer to Mineral Point Road than the existing building. There will no longer be parking spaces between the building and the street, but a drive aisle accommodating those exiting the drive-through will run in front of the building, as is allowable in the Suburban Employment District.

**Land Use** – The proposed restaurant use requires conditional use approval in the Suburban Employment District. The proposed restaurant building would be open from 10:00 AM to 10:00 PM, and would serve as a site to provide experience and training for new franchise owners. 45 full-time employees are estimated for the restaurant, and it is likely to serve a wide variety of clientele. Support for bicycling and pedestrians is critical on the site, as it will likely be a lunch destination for students from nearby Madison Memorial High School and Madison College, as well as residents and employees living and working close to the site. Of course the restaurant will be in a position to draw automobile traffic from the greater Madison region, especially those visiting West Towne Mall and other nearby destinations.

**Building Placement and Massing** – The proposed building is placed 46 feet from the property line shared with Mineral Point Road, which is approximately 20 feet closer than the existing building is placed (Note: based on zoning requirements for the setback between the property line and any drive aisle or parking area, the building will likely need to be moved back on the site by approximately 10 feet). The building is approximately 52 feet wide and 101 feet deep, and all surface parking is beside and behind the building. The top of the parapet is generally 22 feet, the minimum height required in the SE District, with small portions extending to up to 26 feet.

**Access, Parking, and Circulation** – The site includes 51 automobile parking stalls and 10 bicycle parking stalls are proposed just east of the main entrance to the building. A pedestrian connection is shown as a crosswalk across a drive aisle, connecting the public sidewalk along Mineral Point Road with the entrance area to the building. Since there is no median break along Mineral Point Road in this location, those driving to the site from the west or leaving the site heading east will need to utilize the private street immediately north of the property and Westfield Road to access the light at Mineral Point Road.

**Building Exterior and Site Details** – The building is clad on all sides with manufactured stone and brown cement board siding, with lighter brown EIFS proposed as a trim material at the parapet and on vertical pillars near the top of the building. Blue canvas awnings and silver metal canopies complete the accent materials.

The Landscape Plan includes 16 deciduous trees dispersed throughout the parking area, including a maple, hackberries, ginkgos, tulip trees, and a japanese lilac. Shrubs and grasses are proposed between the building and the street, near the building foundation, and around the edge of the patio space. Finally, several bioretention areas to be planted with two-inch plugs are proposed throughout the site.

## Project Analysis and Conclusion

Restaurants and outdoor eating areas are allowable in the Suburban Employment District as a conditional use, and drive-through facilities are permitted. Staff believes that while an office use at this location would be desirable, the continued use of the site as a restaurant is appropriate as well. The restaurant will likely draw customers using various modes of transportation. Employees working in the area, residents living in nearby Tamarack Trails Condominiums and other multi-family residential developments further north, and students at nearby James Madison Memorial High School and Madison College can easily walk or bike to the site, and visitors to the area from the greater City and region will likely drive to the site. Strong bike and pedestrian connections and efforts to minimize conflicts between pedestrians and drives are important considerations for the site.

**Conditional Use Standards** – The Planning Division staff evaluation of the proposed project's ability to meet the standards for conditional use approval is summarized below.

As stated in MGO Section 28.183(6)(a), *"The City Plan Commission shall not approve a conditional use without due consideration of the recommendations in the City of Madison Comprehensive Plan and any applicable neighborhood, neighborhood development, or special area plan, including design guidelines as adopted as supplements to these plans. No application for a conditional use shall be granted by the Plan Commission unless it finds that all of the following conditions are present:*

1. *The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, or general welfare.*

Staff believes that this standard is met.

2. *The City is able to provide municipal services to the property where the conditional use is proposed, given due consideration of the cost of providing these services.*

Staff believes that this standard is met.

3. *The uses, values, and enjoyment of other property in the neighborhood for purposes already established will not be substantially impaired or diminished in any foreseeable manner.*

Staff believes that this standard is met.

4. *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.*

Staff believes that this standard is met.

5. *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.*

Staff believes that this standard can be met, so long as conditions of approval are adequately addressed. At least one representative for a neighboring property has expressed concerns about increased traffic on the private street to the north due to the new restaurant, but Traffic Engineering staff anticipates only slightly higher traffic generation.

6. *Measures, which may include transportation demand management (TDM) and participation in a transportation management association have been or will be taken to provide adequate ingress and egress, including all off-site improvements, so designed as to minimize traffic congestion and to ensure public safety and adequate traffic flow, both on-site and on the public streets.*

Staff believes that this standard can be met, and does not believe that there is a need for a TDM in this case.

7. *The conditional use conforms to all applicable regulations of the district in which it is located.*

Staff believes that this standard is met, so long as zoning conditions related to lot coverage, setbacks for drive aisles and parking, landscaping, and bicycle parking are sufficiently addressed.

9. *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. In order to find that this standard is met, the Plan Commission may require the applicant to submit plans to the Urban Design Commission for comment and recommendations.*

*Statement of Purpose for Suburban Employment District*

*The SE District is established to encourage a broad range of employment activities, including limited industrial uses conducted within enclosed buildings, while also encouraging shared access, improved landscaping and site design, and bicycle and pedestrian facilities. The district is also intended to:*

- a) Encourage the integration of complementary employment and related issues in an attractive and pedestrian-oriented environment.*
- b) Discourage proliferation of highway-oriented commercial uses that reduce the land area available for development or expansion of employment uses.*
- c) Facilitate preservation, development or redevelopment consistent with the adopted goals, objectives, policies, and recommendations of the Comprehensive Plan and adopted neighborhood, corridor, or special area plans.*

Staff believes that this standard can be met.

[Standards 8 and 10-15 do not apply to this request]

**Conclusion-** Staff believes that the site is well suited for a restaurant, and that the restaurant and outdoor eating area as proposed in this location can continue to support surrounding employment and other uses. Staff believes that the conditional use standards can be met with the proposal.

## Recommendation

### Planning Division Recommendation (Contact Heather Stouder, 266-5974)

The Planning Division recommends that the Plan Commission find that the demolition and conditional use standards can be met and **approve** the request at 7202 Mineral Point Road. This recommendation is subject to input at the public hearing and the conditions recommended by the Planning Division and other reviewing agencies.

### **Recommended Conditions of Approval**

Major/Non-Standard Conditions are Shaded

### Planning Division (Contact Heather Stouder, 266-5974)

1. Final plans shall include the intended capacity for the restaurant, for both inside the restaurant and the outdoor eating area.

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

2. As proposed there are light poles and signage within an existing public sanitary sewer easement. If the light poles and proposed monument sign and are utilizing the same bases and foundation as the existing poles and sign then the improvements will be allowed within the 15 foot wide Public Sanitary Sewer Easement with a Consent to Occupy Easement document. If the poles and sign are NOT utilizing the existing bases and foundations then they will have to be relocated outside the easement. A Consent to Occupy Easement document, if required, shall be drafted and recorded to define responsibilities and requirements in conjunction with improvements shown within the easement. A City of Madison Real Estate project will be required along with a \$500 for administrative fee to create the document, obtain required approval(s) and record with the Register of Deeds. Coordinate with and provide legal descriptions and map exhibits along with the \$500 for administrative fees to Jeff Quamme at jrquamme@cityofmadison.com or 1600 Emil Street, Madison, WI 53703 (Ph. 608-266-4097).
3. The proposed bioretention basins shall not be allowed within the existing 15 foot wide Public Sanitary Sewer Easement. Relocate the basin as necessary.
4. The address of 7202 Mineral Point Rd is being retired with the demolition of the existing building. The new address for the proposed Culver's is 7206 Mineral Point Rd.
5. The site plan shall reflect a proper street address of the property as reflected by official City of Madison Assessor's and Engineering Division records.
6. 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).

7. All damage to the pavement on Mineral Point Road, 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).
8. This project falls in the area subject to increased erosion control enforcement as authorized by the fact that it is in the ROCK RIVER TMDL ZONE and by Resolution 14-00043 passed by the City of Madison Common Council on 1/21/2014. You will be expected to meet a higher standard of erosion control than the minimum standards set by the WDNR.
9. 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.
10. The site appears to disturb over one (1) acre of land and requires a permit from the WDNR for stormwater management and erosion control. The City of Madison has been required by the WDNR to review projects for compliance with NR216 and NR-151 however a separate permit submittal is still required to the WDNR for this work. The City of Madison cannot issue our permit until concurrence is obtained from the WDNR via their NOI or WRAPP permit process.
11. 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 by 80% off of the proposed development 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.

Stormwater management plans shall be submitted and approved by City Engineering prior to signoff.

12. The Applicant shall submit, prior to plan sign-off, a digital CAD file (single file) to the Engineering Division (mapping). The digital CAD file shall be to scale and represent final construction. The CAD file shall be in a designated coordinate system (preferably Dane County WISCRS, US Ft). The single CAD file submittal can be either AutoCAD (dwg) Version 2013 or older, MicroStation (dgn) V8i Select Series 3 or older, or Universal (dxf) format and shall contain the 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) Plat name and lot lines (metes & bounds parcel lines if unplatted)
  - g) Platted lot numbers (noted "unplatted lands" if not platted)
  - h) Lot/Plat property dimensions
  - i) Street names

All other levels (contours, elevations, etc) are not to be included with this file submittal.

THE CAD FILE WILL ONLY BE REQUIRED PRIOR TO FINAL PLAN REVIEW SO THAT MULTIPLE FILES DO NOT NEED TO BE SUPPLIED OR REVIEWED.

NOTE: Email CAD file transmissions are preferred to: [lzenchenko@cityofmadison.com](mailto:lzenchenko@cityofmadison.com). The party responsible for the CAD file email transmission shall include the project site address in the email subject line. Any changes or additions to the location of the building, private utilities, sidewalks, parking/pavement during construction will require a new CAD file transmittal

13. The applicant shall submit, prior to plan sign-off, digital PDF files to the Engineering Division (Jeff Benedict or Tim Troester). The digital copies shall be to scale, and shall have a scale bar on the plan set (POLICY and MGO 37.09(2))

PDF submittals shall contain the following information:

- a) Building footprints
- b) Internal walkway areas
- c) Internal site parking areas
- d) Lot lines and right-of-way lines
- e) Street names
- f) Stormwater Management Facilities
- g) Detail drawings associated with Stormwater Mgmt Facilities (including if applicable planting plans)

14. 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
- d) 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 (POLICY and MGO 37.09(2)).

15. The applicant's utility contractor shall obtain a connection permit and excavation permit prior to commencing the storm sewer construction (MGO 37.05(7)).
16. Prior to approval, the owner or owner's representative shall obtain a permit to plug each existing sanitary sewer 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: As of January 1, 2013 new plugging procedures and permit fees go into effect. The new procedures and revised fee schedule is available on line at <http://www.cityofmadison.com/engineering/permits.cfm>. (MGO CH 35.02(14)).
17. All outstanding Madison Metropolitan Sewerage District (MMSD) are due and payable prior Engineering sign-off, unless otherwise collected with a Developer's / Subdivision Contract. Contact Janet Schmidt (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)).
18. This project appears to have proposed uses which 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 criteria. Please contact Tim Troester 608-267-1195 with question regarding this requirement.

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

19. The applicant shall submit one contiguous plan showing proposed conditions and one contiguous plan showing existing conditions for approval. The plan drawings shall be scaled to 1" = 20' and include the following, when applicable: existing and proposed property lines; parcel addresses; all easements; 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.
20. 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.
21. 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.
22. All parking facility design shall conform to MGO standards, as set in section 10.08(6).

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

- |  |
|--|
| 23. The Madison Fire Department does not object to this proposal provided it complies with all applicable fire codes and ordinances. |
|--|

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

24. 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>.
25. Please reference ID#15119 when contacting Parks.

**Water Utility** (Contact Dennis Cawley, 266-4651)

26. 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.

**Zoning Administrator** (Contact Matt Tucker, 266-4569)

- |  |
|--|
| 27. Shift the south drive aisle so that it is setback a minimum of twenty-five (25) feet from the front property line. A maximum of one drive aisle and two rows of parking, not to exceed seventy (70) feet of parking, |
|--|



may be located between the front of the principal building and the street, set back at least twenty-five (25) feet from the front lot line.

28. Provide the lot coverage calculation for the proposed project. The maximum lot coverage is 75% of the lot. Lot coverage is the total area of all buildings measured at grade and all paved areas as a percentage of the total area of the lot, with the exception of sidewalks or paved paths no wider than five (5) feet, pervious pavement, green roofs and decks.
29. Bike parking shall be provided per section 28.141(11) at a minimum of 5% of capacity of persons. Bike parking stalls shall be located in a safe and convenient location on an impervious surface. Label the dimensions of the bike stalls and access aisle on the final plan. Note a bike stall is a minimum of 2 feet by 6 feet with a 5 foot wide access aisle.
30. Submit a detail showing the model of bike rack to be installed. Structures that require a user-supplied locking device shall be designed to accommodate U-shaped locking devices.
31. A minimum of three (3) accessible stalls are required per section 28.141(4)(e)
32. Submit a detail showing the table and seating layout of the outdoor eating area. The outdoor capacity shall be established. Occupancy is established by the Building Inspection Unit. The use shall comply with supplemental regulations for outdoor eating areas associated with food and beverage establishments, section 28.151 of the City of MGO.
33. Submit a detail of the refuse and recycling enclosure area. The refuse enclosure shall be screened on four sides (including a gate for access) by a solid, commercial-grade wood fence, wall, or equivalent material with a minimum height of six (6) feet.
34. Submit a detail showing the height of the rooftop mechanical equipment in relation to the parapet height. All rooftop and ground level mechanical equipment and utilities shall be fully screened from view from any street, as viewed from six (6) feet above ground level.
35. 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
36. Sec. 28.185 (7)(a)5. requires that if a demolition or removal permit is approved, it shall not be issued until the reuse and recycling plan is approved by the Recycling Coordinator, Mr. George Dreckmann. (608-267-2626).
37. Sec. 28.185 (10) Every person who is required to submit a reuse and recycling plan pursuant to Sec. 28.185(7)(a)5. shall submit documents showing compliance with the plan within sixty (60) days of completion of demolition.
38. Sec. 28.185(9) (a) A demolition or removal permit is valid for one (1) year from the date of the Plan Commission approval.