

## PLANNING DIVISION STAFF REPORT

July 13, 2015



PREPARED FOR THE PLAN COMMISSION

**Project Address:** 11 N. Allen Street  
**Application Type:** Conditional Use  
**Legistar File ID #** [38730](#)  
**Prepared By:** Timothy M. Parks, Planning Division  
Report includes comments from other City agencies, as noted.

### Summary

**Applicant & Property Owner:** Chrissy Lemmenes, Apollo Coffee Company, LLC/ Lemmenes Ventures, LLC; 2529 Van Hise Avenue; Madison.

**Requested Actions:** Approval of a conditional use for an outdoor eating area for a coffeehouse at 11 N. Allen Street.

**Proposal Summary:** The applicant is requesting re-approval of an outdoor eating area for the coffeehouse located on the first floor of her two-story mixed-use building. The outdoor eating area will occupy most of the rear yard of the property. The applicant wishes to occupy the outdoor eating area as soon as all regulatory approvals have been granted.

**Applicable Regulations & Standards:** Table 28D-2 in Section 28.061 of the Zoning Code identifies outdoor eating areas associated with food and beverage establishments as a conditional (accessory) use 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:** Plan Commission.

**Summary Recommendation:** The Planning Division recommends that the Plan Commission find the standards met and **approve** a conditional use for an outdoor eating area for a coffeehouse at 11 N. Allen Street subject to input at the public hearing and the conditions from reviewing agencies beginning on page 3 of this report.

### Background Information

**Parcel Location:** An approximately 3,800 square-foot parcel located 100 feet north of Regent Street on the east side of N. Allen Street; Aldermanic District 5 (Bidar-Sielaff); University Heights Historic District; Madison Metropolitan School District.

**Existing Conditions and Land Use:** A two-story building featuring the subject coffeehouse/ restaurant on the first floor a second floor apartment, zoned NMX (Neighborhood Mixed-Use District).

#### Surrounding Land Uses and Zoning:

**North:** Single-family residences on Chadbourne Avenue, zoned TR-C2 (Traditional Residential–Consistent 2 District);

**South:** Neighborhood commercial uses on Regent Street (Stony Hill Antiques, Regent Street Co-op, etc.), zoned NMX (Neighborhood Mixed-Use District);

West: North Allen Street Condominiums, zoned PD;

East: Higher Fire Studio, zoned NMX; single-family residences on Regent Street, zoned TR-C2.

**Adopted Land Use Plans:** The Comprehensive Plan recommends that the subject site and the other nearby commercial properties in NMX zoning surrounding the Regent-Allen intersection be developed as Neighborhood Mixed-Use. The surrounding residential properties are generally recommended for Low-Density Residential development.

**Zoning Summary:** The site is zoned NMX (Neighborhood Mixed-Use District).

Category	Required	Proposed
Front yard setback	0'	Existing, no change
Side yard setback:	6'	Existing, no change
Rear yard setback:	20'	Existing, no change
Maximum height	3 stories / 40'	2 story, no change
Maximum Lot Coverage	75%	Existing, no change
Number parking stalls	15% capacity of persons (TBD)	0 (See Zoning conditions)
Bicycle parking	5% capacity of persons of restaurant-tavern and patio (TBD)	TBD, appears adequate
Accessible stalls	0	0
Loading	No	None (See Zoning conditions)
District Boundary Screening	Yes, to north	TBD (See Zoning conditions)
<b>Other Critical Zoning Items</b>		
Yes:	Landmarks (University Heights Historic District), Barrier Free (ILHR 69);	
No:	Urban Design, Utility easements	

**Environmental Corridor Status:** The subject site is not located in a mapped environmental corridor (see CARPC Map D8).

**Public Utilities and Services:** The site is served by a full range of urban services, including daily Metro Transit service along Regent Street.

## Previous Approval

On May 21, 2007, the Plan Commission found the standards met and approved a conditional use for an outdoor seating area to serve a coffeehouse/ restaurant located at 11 N. Allen Street subject to conditions outlined in a letter to the applicants dated May 22, 2007. However, the conditions of that approval were never met, and the 2007 expired.

## Supplemental Regulations

Section 28.151 of the Zoning Code includes the following supplemental regulations for outdoor eating areas associated with food and beverage establishments:

- a.) Primary access to the area shall be from within the establishment.
- b.) Hours of operation may be restricted and noise and lighting limits imposed as part of the conditional use approval.

- c.) Where the use is conditional, an appropriate transition area between the use and adjacent property may be required, using landscaping, screening, and other site improvements consistent with the character of the neighborhood.

## Project Description, Analysis and Conclusion

The applicant and property owner is requesting conditional use approval for an outdoor eating area for the Froth House coffeehouse/ restaurant located at 11 N. Allen Street in NMX zoning. The outdoor seating area, which was established by a previous operator of the coffeehouse, occupies the rear yard of the building, which includes the coffeehouse/ restaurant space on the first floor and an apartment on the second floor. The plans submitted with the request show that the outdoor seating area occupies an approximately 35-foot wide, 35-foot deep patio that contains 8 tables and approximately 32 seats. The applicant indicates that service in the outdoor eating area ceases at 9:00 PM daily.

As noted earlier in this report, a previous operator received approval for the same outdoor eating area in 2007. However, because the previous applicant did not finalize their approval by satisfying the conditions of same, the previous conditional use approval expired. The current applicant is seeking re-approval to continue using the outdoor area legally. The Planning Division is unaware of any concerns about the past use of the space and believes that re-approval of the outdoor eating area can meet the standards of approval for conditional uses. In addition to the hours of operation, the applicant proposes no amplified sound in the outdoor eating area. For posterity, staff recommends that these self-limitations on the hours of operation and amplified sound be made conditions of this approval.

## 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 for an outdoor eating area for a coffeehouse at 11 N. Allen Street subject to input at the public hearing, the following Planning Division condition(s) and the conditions from reviewing agencies:

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

1. That no outdoor amplified sound be permitted for the outdoor eating area.
2. That the applicants submit detailed plans showing existing and proposed landscaping and screening (fencing) along the northern and eastern property lines for Planning Division approval to ensure adequate screening and enclosure of the outdoor eating area from the residences to the north and east.
3. That the hours of operation for the outdoor eating area be 7:00 AM until 9:00 PM Monday through Sunday as outlined in the letter of intent. However, the Director of the Planning Division may consider a minor alteration to the conditional use to modify the hours of operation in the future following a recommendation by the district alder.

The following conditions have been submitted by reviewing agencies:

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

4. The depth of the parcel per public record is 94.25 feet, not 95 feet. The site plan shall be revised to correct this issue.
5. The site plan shall identify lot and block numbers of recorded Certified Survey Map or plat.
6. 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).

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

7. The applicant shall submit one contiguous plan for approval. The plan drawing 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 2 feet of vehicle overhang; drive aisle dimensions; semitrailer movement and vehicle routes; dimensions of radii; and percent of slope.
8. All parking facility design shall conform to the standards in MGO Section 10.08(6).

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

9. The property includes a curb-cut and driveway from N. Allen Street. This driveway must be closed, or the area noted as "existing walkway" on approved plans shall be designated as a loading zone for the property and paved per the Traffic Engineering Division requirements.
10. This property is located within the University Heights Historic District. Contact Preservation Planner Amy Scanlon (266-6552) regarding Landmarks Commission requirements for review of this project.
11. Meet applicable building/fire codes. The outdoor capacity shall be established. Occupancy is established by the Building Inspection Division. Contact Building Inspection Plan Reviewer Mike VanErem at 266-4559 to help facilitate this process.
12. Due to the proximity of the nearby restaurant, the facility is required to provide off-street parking. Auto parking equivalent to 15% of the capacity and bike parking equivalent to 5% of the capacity is required. Provide details on capacity of the coffeehouse/ restaurant-tavern, including outdoor seating area, so parking requirements can be calculated. Note: This project will require a parking stall reduction, most likely within a level approvable by the Zoning Administrator.
13. If refuse is to be stored outside on this site, provide a refuse enclosure for storage of the on-site refuse containers. Screening shall be between 6 and 8 feet in height.

14. Any new exterior lighting shall be installed in compliance with the City's outdoor lighting regulations in MGO Section 10.085.
15. Section 28.142(8) of the Zoning Code requires district boundary screening for the abutting residential property to the north. Screening shall consist of a solid wall, solid fence, or hedge with year-round foliage, between six (6) and eight (8) feet in height. Show complaint screening on final plans. Note: This requirement may be waived or modified by the Plan Commission.

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

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

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

16. Note: All operating private wells shall be identified and permitted by the Madison Water Utility and all unused private wells shall be abandoned in accordance with MGO Sec. 13.21.

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

This agency did not provide comments for this request.

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

This agency did not provide comments for this request.