

**SITE PLAN REVIEW
CITY COMMISSION
June 26, 2012**

A. SUMMARY

SP-5-39-12: A site plan for the expansion of a non-conforming use for Harbour Lights located at 1031 Massachusetts Street. Submitted by Mike Myers of Hernly Associates for David Heinz, the property owner of record.

B. GENERAL INFORMATION

Current Zoning and Land Use: CD (Downtown Commercial District); Eating & Drinking Establishment, Bar.

Surrounding Zoning and Land Use: CD (Downtown Commercial District) in all directions; retail, office, eating and drinking establishments and residential uses.

Site Summary:

Building	2,195 Sq. Ft.
Total site area used	2,925 Sq. Ft.
Proposed Building Addition:	76 Sq. Ft.
Proposed Deck Addition:	583 Sq. Ft.
Off-Street Parking Required:	No parking required in Downtown Commercial District.

Staff Recommendation: Staff recommends approval of SP-5-39-12, a site plan for the expansion of a non-conforming use, subject to the following conditions:

1. Execution of a Site Plan Performance Agreement;
2. Submission of a revised site plan to include:
 - a. The existing sanitary sewer service to the building.

C. STAFF REVIEW

The applicant proposes to rehabilitate the storefront at 1031 Massachusetts Street and to construct an addition on the west side of the building. The rear addition includes a rooftop hospitality deck (583 sf) and a building addition (76 sf) for a ramp for wheelchair accessibility. An existing addition (395 sf) will also be reconstructed due to poor condition. The applicant will also make interior improvements for accessible bathrooms.

The current use of the property located at 1031 Massachusetts Street is Harbour Lights, a drinking establishment/bar without food sales. This bar/licensed premise was existing when the ordinance that requires food sales of 55% for licensed premises in the CD District was enacted. As a licensed premise in the CD District that is not required to provide food sales, Harbour Lights is a nonconforming use. *20-509 Eating and Drinking Establishments* identifies in Section (5)(iii) that *the expansion, extension, enlargement, or alteration of a non-conforming use created by these restrictions shall be governed by Article 15 of this Code.*

According to 20-1501, nonconforming uses are only allowed to expand when

(b) Expansion

(1) When and How Allowed

A nonconforming use may not be expanded except as follows:

- (i) expansions that eliminate or reduce the nonconforming aspects of the situation are allowed;*
- (ii) expansions into a part of a **Building** or other **Structure** that was lawfully and manifestly designed or arranged for this use may be approved by the City Commission, if reviewed and approved in accordance with the Special Use procedures of Sec. 20-1306; and*
- (iii) expansions that are necessary and incidental to the existing nonconforming use may be approved by the City Commission if reviewed and approved in accordance with the Special Use procedures of Section 20-1306.*

The proposed building expansion for Harbour Lights is the ADA ramp (76 sf). The ramp will enclose an area currently used as part of the hospitality area (patio). The existing bar/licensed premise use is currently the building plus the patio area for a total use area of 2,925. The proposed raised deck addition of 583 sf. is less than 25% (731 sf) of the existing nonconforming use area. Staff is of the opinion that this proposed expansion is necessary and incidental to the existing nonconforming use and may be approved by the City Commission.

20-1502(b)(3)(ii) identifies the standards and limitations for the expansion of a nonconforming use in a nonresidential district. The proposed expansion does not exceed 25% of the original use. The expansion does not encroach into a residential district and it complies with the setback and height standards of the CD District. There are no off-street parking or loading requirements in the CD District.

Historic Resources Commission

1031 Massachusetts Street is listed as a non-contributing structure in Lawrence's Downtown Historic District, National Register of Historic Places. It is in the environs of the Douglas County Courthouse (1100 Massachusetts), the English Lutheran Church (1040 New Hampshire), and Watkins Bank (1047 Massachusetts), National Register of Historic Places. The property is also in the Downtown Urban Conservation Overlay District and subject to the Downtown Design Guidelines. The Historic Resources Commission approved the proposed project (DR-3-43-12) at their meeting on April 19, 2012 with the following conditions:

1. Any changes to the approved project will be submitted to the Historic Resources Commission prior to the commencement of any related work.
2. Complete construction documents with material notations will be submitted and approved by the HRA prior to the release of a building permit.

D. Findings

Per Section 20-1305(j) staff shall first find that the following conditions have been met:

(1) The site plan shall contain only platted land;

The site is the South ½ Lot 107, Massachusetts Street, of the original townsite.

(2) The site plan shall comply with all standards of the City Code, this Development Code and other adopted City policies and adopted neighborhood or area plans;

The site plan complies with all standards of the City Code and Development Code subject to the satisfaction of the conditions of approval.

(3) The proposed use shall be allowed in the district in which it is located or be an allowed nonconforming use;

The subject property is zoned CD (Downtown Commercial) District. Eating & Drinking Establishments are permitted in the CD (Downtown Commercial) District. The property is a legal nonconforming use because the licensed premise/bar existed prior to the adoption of the ordinance requiring food sales of 55% for licensed premises in the CD District.

(4) Vehicular ingress and egress to and from the site and circulation within the site shall provide for safe, efficient and convenient movement of traffic not only within the site but on adjacent roadways as well and shall also conform with adopted corridor or access management policies; and

No changes are proposed that would affect vehicular ingress and egress.

No off-street parking is required or proposed with this project due to its location in the CD (Downtown Commercial) District.

(5) The site plan shall provide for the safe movement of pedestrians on the subject site.

The site plan shows safe pedestrian movement to and from the subject business.

E. Conclusion

The proposed project will allow for the building located at 1031 Massachusetts to expand to accommodate an enclosed ramp for the building to become ADA accessible. The rehabilitation of the storefront will allow the structure to become a contributing structure to Lawrence's Downtown Historic District. The site plan for the expansion of the nonconforming use complies with the applicable codes and standards of the City of Lawrence.