

**CAPITOL ZONING DISTRICT COMMISSION  
STAFF REPORT  
6/30/20  
DAC / BIM**



**Location:** 1301 South Main Street  
**Applicant:** Jack Sundell for SOMA Storefronts  
**Permit Type:** Temporary Use

**Project Description:** This application is for an extended Temporary Use permit to use the portion of the parking lot fronting Main Street as an outdoor dining area for patrons of restaurants along South Main while the coronavirus pandemic affects in-house dining services.

**Historic Significance:** This block was developed as mixed residential and commercial at least by the 1880s. The lot at 1301 South Main originally held a drug store and other storefronts abutted it to the south, while a small residence sat to the east facing 13<sup>th</sup> Street. The rest of what would become the current parking lot was made up of larger residences. All these buildings remained on the block through the first decade of the 20<sup>th</sup> century, but by 1913, the drug store was gone, and the rest of the buildings were demolished in subsequent decades, especially after 1950. The final original structure on the lot to be removed was the small house facing 13<sup>th</sup> Street, which occurred between 1972 and 1974. After the final clearance in the early 1970s, the lot sat vacant and was used as an unpaved parking area, until it was paved in the early 2000s. Since then, the lot has continued to serve as parking for patrons of storefronts along South Main Street. The current owner purchased the property in 2019.

**Previous Action:** An application for Conditional Use, which would use the lot as space for an auto leasing agency at 1300 S. Main, went before the Commission and obtained a permit in 1985. Staff issued a Temporary Use permit for retail sales of cosmetics and accessories in July of 2019.

In late 2019, the current owner converted the property to a commercial parking lot and installed a self-pay kiosk. This change in use was not permissible, and in May 2020 the Commission ordered the use discontinued and the kiosk removed. When the kiosk was disabled and covered, staff issued two Temporary Use Permits (for two weeks each) to the current applicant to allow for use as an outdoor dining area.

**Zoning:** This property is located in Zone "O", "General Commercial". This general commercial zone, roughly corresponding with the "SoMa" cultural district, allows for the broadest range of uses in the Governor's Mansion Area.

## Review Criteria for Temporary Use Permits:

### Capitol Zoning District Commission Rule, Section 2-105, Permit Approval Procedure

**C.6.** A Temporary Use Permit may be issued to permit an activity and associated temporary signage that otherwise is not allowed by right.

**a.** Staff may issue a Temporary Use Permit for an activity that would otherwise require a Conditional Use Permit and/or **full enclosure** if staff determines the proposed activity substantially complies with all of the following standards:

(i) The proposed use or activity is so designated, located and proposed to be operated in such a manner that the public health, safety and welfare will be protected.

(ii) The proposed use or activity is compatible with and will not adversely affect other property in the area where it is proposed to be located.

(iii) The proposed use or activity would not exceed fourteen (14) days in duration.

(iv) All requirements of other public agencies would be met.

(v) Any associated signage would not be permanently affixed, would not exceed thirty-six (36) square feet, and would be removed in a timely fashion following the proposed use or activity.

**(vi) The maximum time approved for all Temporary Use Permits issued by staff for the property in question would not exceed eight (8) weeks per 12-month period.**

**b.** If the Staff determines all of these standards will not be met, the application shall be scheduled for a public meeting before the Commission. The Commission will also review all Temporary Use applications for activities which would otherwise be prohibited.

(i) When reviewing requests for Temporary Use permits, the Commission shall consider the criteria above, as well as the impact of the proposed activity on the property, on neighboring properties, and the goals of the Master Plan.

(ii) A Temporary Use Permit may be granted by the Commission **for any time period up to one year** from the date of issuance.

**F. 1.** All changes in the Capitol Zoning District will be evaluated according to the General Standards and the applicable Area Master Plan ...

**F.5. (a)** In reviewing the application, the Commissioners shall consider the application and base their decision upon the report of the Staff, the recommendations of the Design Review Committee, advice from Advisory Committees, impact of the proposal on the property, neighboring properties, the District as a whole, the goals of the Master Plan, any applicable review criteria, and the evidence or testimony presented by the applicant(s) and other interested parties. The Commission shall approve the permit(s) if it finds the proposal to be substantially consistent with the applicable review criteria ...

*Restaurants are allowed by right in Zone O, but are normally required to operate within an enclosed structure. The application meets all the above criteria except C6a.vi, above. Staff has already issued two Temporary Use permits for this application, but circumstances will likely require an extension. Since staff cannot issue Temporary Use permits for periods longer than eight weeks, the Commission must review the application according to the General Standards and the Mansion Area Master Plan.*

### Capitol Zoning General Standards, Section 3-201 Zoning Requirements

**Z8. Zone O “General Commercial”** This zone allows for a broad mix of urban residential and business uses. Commercial-style buildings with traditional storefronts should be the predominant building form.

#### **4. Permitted Uses**

Allowed by right - Residential 1, Office 1, Commercial 1

Allowed with Commission review (conditional uses) - Residential 2, Office 2, Commercial 2-3, Civic 1- 3

*The application proposes an extension use to those already established in the zone, providing safer and more controlled seating/dining for patrons of nearby restaurants that are not currently serving in enclosed spaces in light of the covid pandemic. Staff believes the proposed use still resembles a restaurant, which is listed under the use group Commercial 1 (Quiet Retail) and generally allowed by right in this zone. However ...*

### Capitol Zoning General Standards, Section 3-203 Use Groups

#### **U9. Commercial 1 (Quiet Retail)**

*Enclosure of uses required. Every use in this group, shall be operated in its entirety within a completely enclosed structure.*

*... the proposed temporary use is not fully (or even partially) enclosed.*

## U.16 OTHER USES

1. For any use not listed in one of the above groups, the Commission or its staff shall determine on a case-by-case basis which Use Group the proposed use most closely resembles, following due consideration.

*"Outdoor dining room" is not listed under any of the use group categories. Staff believes the proposed use is similar to a restaurant and may be treated as a Quiet Retail use.*

### Capitol Zoning General Standards, Section 3-301, Parking Requirements

#### **P1. Requirement**

There shall be provided for each use in any zone the number of off street parking spaces required for that use ...

#### **P14. Required parking spaces by use**

##### **7. COMMERCIAL**

Restaurant = 1 per 3 seats

*The outdoor dining area contains 120 available seats, which would require 40 available parking spaces. Since the lot already serves as available parking for patrons of these restaurants during normal use, and as it contains enough space to meet this requirement, staff believes the application is consistent with this requirement.*

### Capitol Zoning General Standards, Section 3-401, Signage Requirements

#### **S.6. Temporary Signs**

**6. Signs for approved temporary uses:** Any property with an approved by a Temporary Use Permit may display a sign or signs described in the permit. Such signs shall be removed immediately upon expiration of the permit.

*Signage associated with this use do not require a separate permit, but must be removed when the temporary use ends.*

### Mansion Area Master Plan, Section 6-201, Mansion Area Goals & Recommendations

#### **A. Mansion Area Goals**

##### **4. To create an improved image and stronger sense of identity**

Neighborhood residents already feel a strong sense of identity but wish this image to extend throughout the community of Little Rock.

##### **5. To continue to develop a more family-friendly environment for residents and visitors alike**

Providing such elements as landscaping, period lights, trails, parks and medians might help to accomplish this goal.

##### **7. To create a mixture of uses throughout the neighborhood.**

Providing convenient neighborhood services is vital to the long-term success of any community.

##### **8. To enhance the pedestrian experience throughout the commercial areas**

Streets should be places that are active with pedestrians, where walking is a pleasant experience. The automobile should appear subordinate to other uses. Therefore, parking and circulation requirements should be accommodated in a manner that supports the desired uses for the neighborhood.

**10. To accommodate and promote commercial land uses ... that complement and preserve the residential character of the neighborhood.** An important goal for the Mansion Area is to promote a mix of uses that will support a lively neighborhood. While the predominant use will continue to be residential, compatible commercial uses should be encouraged. Uses along these streets should focus on serving the neighborhood.

#### **E. Land Use**

##### **3. Traditional Main Street Commercial: Zone O**

This area should continue to develop as a concentration of commercial uses. Development along Main Street in Zone "O" should reinforce the traditional storefront commercial character of the area. Traditionally, this portion of Main Street was animated with commercial activity. Storefronts provided views to goods and services inside ground floor shops, and the sidewalk was active with pedestrians. This commercial activity center attracted pedestrians from nearby neighborhoods, a goal that exists for today. This distinctly different setting should be maintained as a typical Main Street character.

*Staff finds the proposal to be consistent with these goals.*

**Neighborhood Reaction:** Staff received one email (below) in support of the application.

I will not be able to make this evening's meeting and would ask that I be excused.

Also, in information that will surprise nobody, I am in support of all of these items and would vote in favor of each. Please convey my support to the committee.

Thanks!

Dan Roda

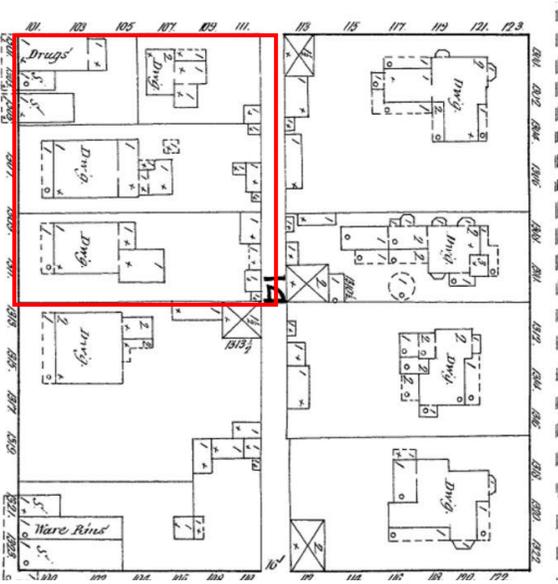
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**Staff Recommendation:** Staff recommends approval of the application with the following conditions:

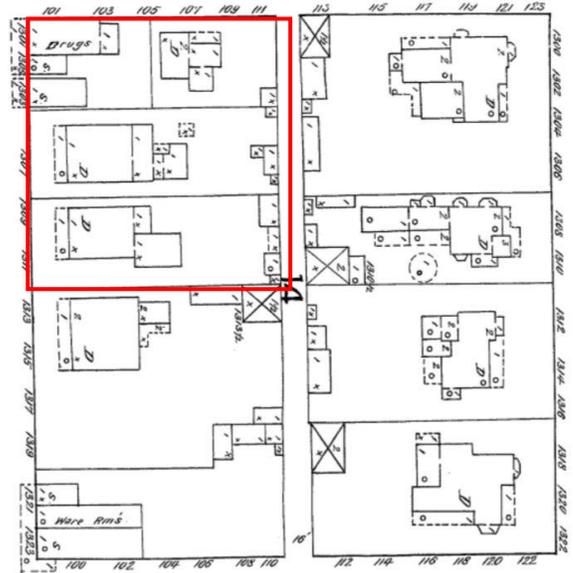
- 1) That all State and City Codes be followed at all times;
- 2) That the property be maintained in a neat and safe condition at all times
- 3) The temporary use permit will remain valid for one year, or for as long as the Governor's Executive Order 20-03 (covid-19 state of emergency declaration) remains in effect, whichever is first; and
- 4) The unpermitted self-pay parking kiosk must remain covered and disabled, in lieu of removal, for the duration of the permit.

**Mansion Area Advisory Committee Recommendation:** The MAAC voted unanimously (16-0) to recommend approval.

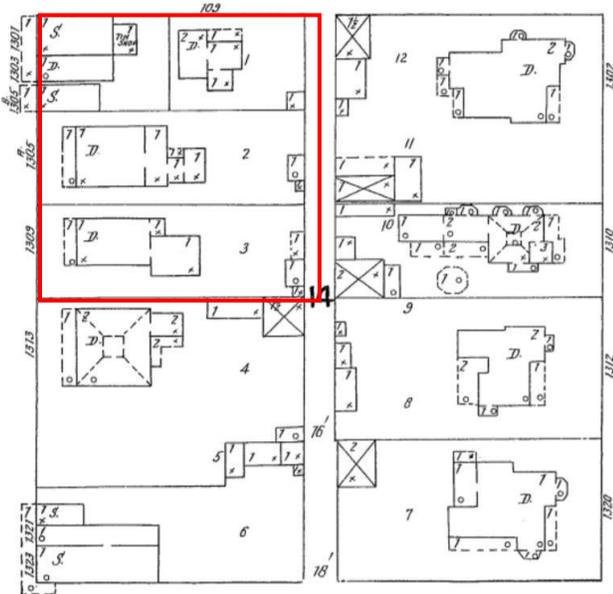
# Sanborn Maps, Aerial Photographs, and Archival Photographs



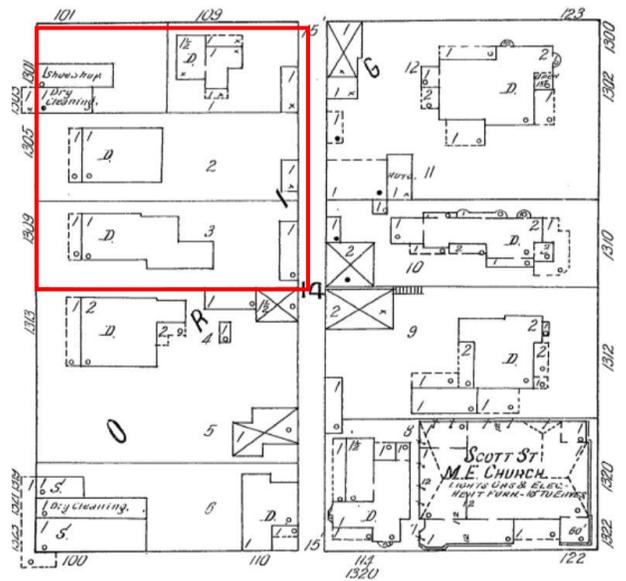
1889 - The space that makes up the current lot originally held a mix of residential and commercial properties. The original 1301 lot held a drug store.



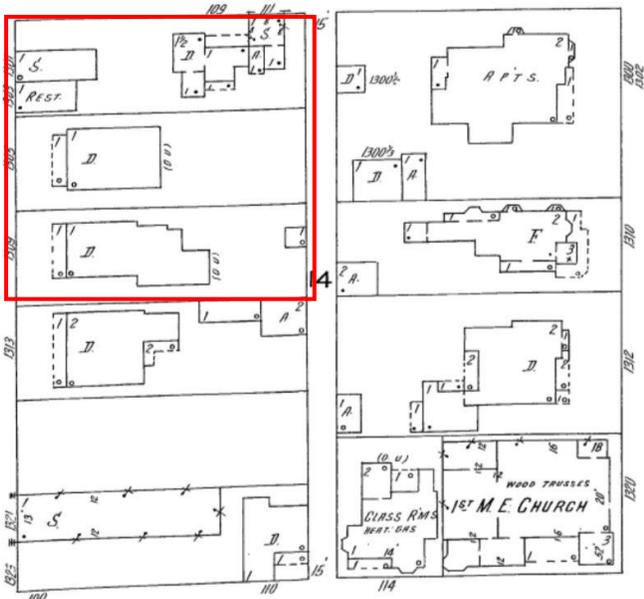
1892 - No change.



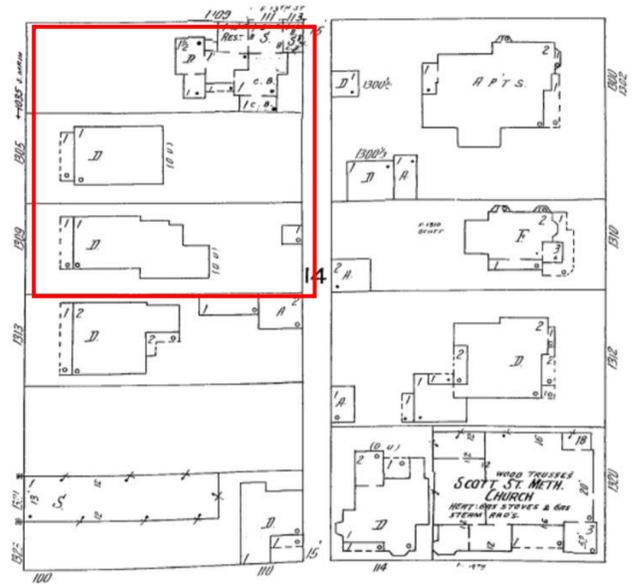
1897 - No change.



1913 - The original storefront at 1301 Main is gone, but otherwise no significant changes to the Main Street side of the block.



1939 - The lot at 1301 Main now extends to the alley. New storefront at the south end of the block.



1950 - The lot at 1301 Main now cleared of all original buildings except the house facing 13<sup>th</sup> Street.



1960 - All buildings removed on the Main Street side except the south end storefront.



1972 - 1301 remains vacant except for the house facing 13<sup>th</sup> Street.



1974 - The last original house on the block removed.



1980 - The lot is being used as an unpaved parking lot, and the EZ Mart building in the adjacent lot is present.



1994 - Still not paved.



1985 - The lot in use as unpaved parking.

## Current Photos



The lot is shown here with the outdoor dining configuration and a recent Google Earth view of the lot without the dining tents (bottom right). The owner of the property also placed a pay-to-park kiosk at the northeast corner of the lot in 2019, which was not permitted. For the purposes of obtaining the Temporary Use permits, the kiosk has been covered (bottom left).



## CAPITOL ZONING DISTRICT COMMISSION

### APPLICATION FORM

PROPERTY ADDRESS 1301 Main Street (southeast corner of 13th and Main)

PROPERTY OWNER Rusty Thompson / SoMa Storefronts

PERSON FILING APPLICATION Jack Sundell  
*if other than owner*

APPLICANT PHONE AND EMAIL [REDACTED]

APPLICANT SIGNATURE AND DATE Jack Sundell June 5, 2020  
*Signature certifies that applicant is authorized to represent this property, and that all information presented in this application, as well as in any supporting materials, is true and correct to the best of the signatory's knowledge.*

DESCRIPTION OF PROPOSED WORK AND / OR USE The SoMa Outdoor Dining Room will be a temporary outdoor dining facility set up in accordance with City of LR Temporary

Outdoor Seating Application Procedure released 6/1/2020. It will consist of 20 EZ-ups each covering a table and chairs, trash cans, and hand sanitizer stations.

*Attach as many pages or supporting materials as necessary. The Commission and its staff cannot make a determination on your application without a complete description of the property's proposed appearance, materials, and/or function. An application is not complete until all applicable supporting materials have been submitted to staff. Electronic submittals (email, scanned documents, PDFs, digital images, etc) are welcome.*

## SoMa Outdoor Dining Room

1. SODR will be located at the southeast corner of 13th and Main in the SoMa Neighborhood of downtown Little Rock in the parking lot directly across from South on Main and M2 Gallery. The parking lot is owned by SoMa Storefronts.
2. SODR will consist of twenty 10' x 10' EZ-up tents zip-tied together at the legs and weighted down with sandbags. The total seating area will be approximately 100' long by 20' wide.
3. Each EZ-up will have one 6-foot folding table under it with six folding chairs, for a total of 20 tables and 120 chairs. Tables will be spaced at appropriate distance from one another.
4. Guests will be required to wear masks except when consuming food or drink, stay at their table area with their party (max of 6 people), and clean up after themselves when finished.
5. There will be 10 large trash cans and 10 hand sanitizer stations around the perimeter.
6. A barrier consisting of sections of metal barricade and flag pennants will delineate the interior and exterior of the seating area. A break in the barrier for entrance and exit will be located on the Main Street side.
7. Initially staffing and cleanup will be handled by the six restaurants involved:
  - a. Mockingbird Bar & Tacos
  - b. Raduno
  - c. South on Main
  - d. Ester's
  - e. Community Bakery
  - f. Loblolly Creamery

# Application Temporary Outdoor Seating

Temporary Outdoor Seating applications are accepted and issued on the basis that the health crisis caused by the spread of COVID-19 represents an extreme emergency which cannot be solved any other way and/or that it is in the public interest to issue. The correspondence address and location for the requested seating area are not always the same, therefore a street address must be provided for the location of the requested franchise or the application process may be delayed.

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ADJACENT PROPERTY OWNER APPLICANT: Rusty Thompson

OR AGENT FOR: SoMa Storefronts

ADDRESS (For Correspondence)

TELEPHONE/FAX

BUSINESS NAME : Mockingbird Bar & Tacos, Ester's, Community Bakery, South on Main, Raduno, Loblolly Creamery

ADDRESS for FRANCHISED ITEM 1301 Main Street, Little Rock, AR 72202 (parking lot at 13th x Main)  
**(PHYSICAL STREET ADDRESS / LOCATION MUST BE PROVIDED )**

CONTACT PERSON/AGENCY responsible for maintenance of Franchised item: Jack Sundell (owner of Mockingbird Bar & Tacos)

ADDRESS

TELEPHONE

*Attach no more than an 8½ x 11 drawing of the proposed seating area including rough measurements, dimensions and distance from active roadways.*

**Should this seating area be granted, it is understood that the City of Little Rock assumes no responsibility to maintain the installation or to replace any installation damaged or destroyed by Utility or City crews in their routine maintenance work. Also, the City assumes no responsibility should injury be inflicted on any one as a result of the presence or installation of the franchised item.**

Jack Sundell

Jack Sundell

6/5/2020

Applicant's Name (Please Print Name)

Applicant's Signature

Date

Rusty Thompson

Rusty Thompson

6/5/2020

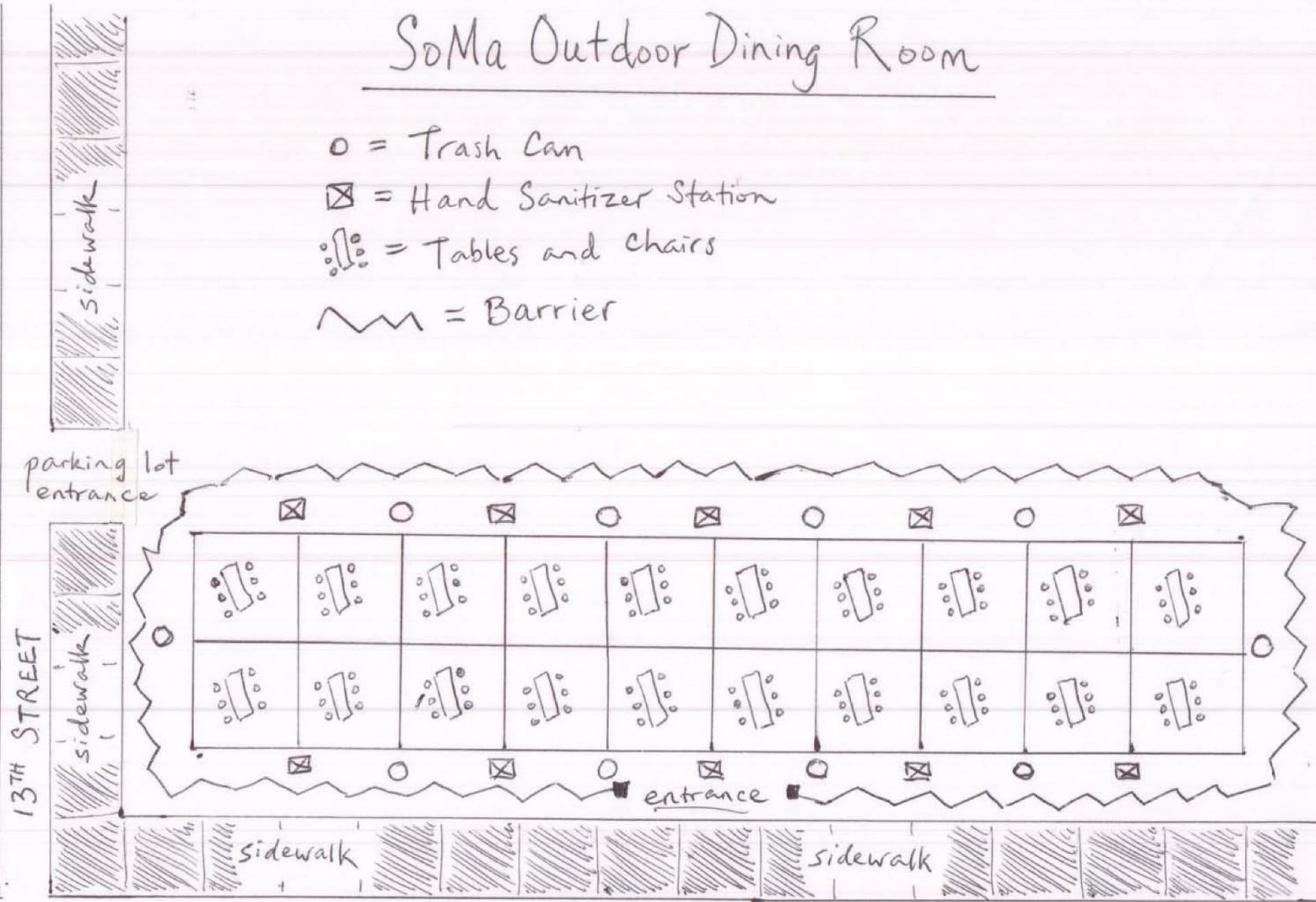
Property Owner's Name

Property Owner's Signature

Date

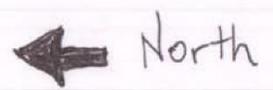
# SoMa Outdoor Dining Room

- = Trash Can
- ☒ = Hand Sanitizer Station
- ☺ = Tables and chairs
- ⚡ = Barrier



13TH STREET

MAIN STREET





**CZDC# 2020-021 *In re SOMA Storefronts LLC***

**IN THE MATTER OF:**

SOMA Storefronts, LLC, owner of record of the property at  
1301 South Main Street, Little Rock, Arkansas

**CONSENT ORDER**

An application filed by Jack Sundell on behalf of SOMA Storefronts LLC, owner of record of the aforementioned property, for temporary use of the property as an outdoor area has been received by the Capitol Zoning District Commission (hereinafter referred to as “the Commission”). In lieu of a formal hearing on this application, and in the interest of prompt and speedy settlement of the above-captioned matter, consistent with the public interest, statutory requirements, and the responsibilities of the Commission, this **Consent Order** is presented as final disposition of the matter. The Commission considered this Order its regular meeting on Thursday, July 16, 2020 held at 4:00PM in the Diamond Conference Room in the Division of Arkansas Heritage building at 1100 North Street in Little Rock. Several commission members participated remotely due to the covid-19 pandemic. The Commission voted \_\_\_\_\_ to adopt the Order as presented.

**FINDINGS OF FACT**

1. The property at 1301 South Main Street is located within the Governor’s Mansion Area of the Capitol Zoning District in Zone “O”. (CZDC General Standards, Section 3-204, B.)
2. Agency records indicate the property has been used as a parking lot since the 1970s.
3. On March 11, 2020, Executive Order 20-03 declared a state of emergency in Arkansas relating to the covid pandemic
4. The application proposes to use a portion of the parking lot as an outdoor dining space for the benefit of nearby restaurants and their patrons during the covid-19 pandemic.
5. “Outdoor dining” is not included in the listed under any of the use groups in General Standards Section 3-203.

- a. Section 3-203, U16 requires the Commission or staff to determine which use group an unlisted use most closely resembles.
  - b. Staff affirms the proposed use is similar to a restaurant and recommends it be treated as a Quiet Retail use.
  - c. Quiet Retail uses are allowed by right in Zone O (General Standards, Section 3-201, Z8.4), but must be fully enclosed (Section 3-203, U9).
  - d. CZDC Rule, Section 2-105, C1.6a allows staff to approve temporary use permits for unenclosed uses for up to 14 days at a time, but not for more than eight weeks in a 12-month period.
  - e. The covid-19 pandemic is generally anticipated to last for more than eight weeks.
6. CZDC Rule Section 2-105, C1.6b allows the Commission to approve a temporary use permit for up to one year in duration and sets forth criteria under which such requests will be considered.
    - a. Staff affirms the proposal is substantially consistent with these criteria.
  7. CZDC General Standards 3-301, P14.7 sets forth parking requirements for restaurants.
    - a. Staff affirms the proposal is substantially consistent with these requirements.
  8. The Mansion Area Master Plan provides goals and recommendations for the Mansion Area (Section 6-201, A) and for land uses in Zone O (Section 6-201, E3).
    - a. Staff affirms the proposal is substantially consistent with these goals.
  9. In late 2019, the current owner converted the property to a paid commercial parking lot and installed a payment kiosk.
    - a. In May 2020, the Commission ordered the owner to remove the kiosk and discontinue the use as a commercial lot. (CZDC# 2020-016, *In re SOMA Storefronts, LLC*)
    - b. The payment kiosk has since been disabled and covered (Staff report, p. 8 photo)
  10. One neighbor contacted staff in support of the application.
  11. The Mansion Area Advisory Committee voted unanimously (16-0) to recommend approval of the application.
  12. Staff recommends approval of a temporary use permit to last one year, or until the expiration of the covid-related state of emergency, whichever come first, contingent upon the payment kiosk remaining covered and disabled, in lieu of removal.

### **CONCLUSIONS OF LAW**

1. The proposed outdoor dining use is most like the use group Quiet Retail.
2. The self-pay parking kiosk must remain covered and disabled, in lieu of removal.
3. The proposed temporary use is substantially consistent with the applicable review criteria.

**ORDER**

Within five business days, staff shall issue a Temporary Use Permit to allow for the outdoor dining area for one year, or until the end of the state of emergency (as declared by the Governor of Arkansas), whichever comes first, noting the condition that the payment kiosk shall remain covered and disabled, in lieu of removal, for the duration of the permit.

**APPEALS**

Any person aggrieved by this order may appeal to the Secretary of the Arkansas Department of Parks, Heritage, and Tourism as set forth in A.C.A. 22-3-310, as amended. Such appeal shall be made in writing within 30 days of receipt of this order and shall state the reason for the appeal. All appeals should be mailed via certified mail to: Secretary, Department of Parks, Heritage, and Tourism, 1100 North Street, Little Rock, AR 72201.

**IT IS SO ORDERED** this \_\_\_\_ day of August, 2020.

\_\_\_\_\_  
**BOYD MAHER**  
Director

\_\_\_\_\_  
**CAROL WORLEY**  
Chair