



PREPARED FOR THE PLAN COMMISSION

**Project Address:** 305 N. Fourth Street (District 12, Ald. Palm)  
**Application Type:** Conditional Use  
**Legistar File ID #** [49135](#)  
**Prepared By:** Chris Wells, Planning Division  
Report Includes Comments from other City Agencies, as noted

## Summary

**Applicants:** Waldo Olguin and Reyna Gonzalez Torres; El Sabor de Puebla, LLC.; 305 N. Fourth Street; Madison, WI 53704  
**Contact:** Blanca Ramirez; Ramirez law Office; P.O. Box 6616; Madison, WI 53716  
**Property Owner:** Timm Heller; 2202 E. Johnson Street; Madison, WI 53704

**Requested Action:** The applicants request approval of two conditional uses to establish a restaurant-tavern and an outdoor eating area in an existing multi-tenant commercial building on a property zoned NMX (Neighborhood Mixed-Use District) at 305 N. Fourth Street.

**Proposal Summary:** The applicants propose to establish a full-service restaurant-tavern as well as an outdoor seating area in the existing building. The seating area will be located immediately adjacent to the restaurant on the existing patio area and have a capacity of six persons.

**Applicable Regulations & Standards:** This proposal is subject to the standards for Conditional Uses [MGO §28.183] as §28.061 of the Zoning Code lists both *Restaurant-taverns* and *Outdoor eating areas associated with food and beverage establishments* as conditional uses in the Neighborhood Mixed-Use (NMX) District. The Supplemental Regulations [MGO §28.151] contain further regulations for these uses.

**Review Required By:** Plan Commission

**Summary Recommendation:** The Planning Division recommends that the Plan Commission find that the approval standards for Conditional Uses are met and **approve** the requests to establish a restaurant-tavern and an outdoor eating area in an existing multi-tenant commercial building on a property zoned NMX (Neighborhood Mixed-Use District) at 305 N. Fourth Street. These requests are subject to the input at the public hearing and the conditions recommended by the reviewing agencies.

## Background Information

**Parcel Location:** The 5,800-square-foot (0.13-acre) project site is located at the northern corner of the intersection of E. Johnson Street and N. Fourth Street. The site is within both Aldermanic District 2 (Ald. Palm) and the Madison Metropolitan School District.

**Existing Conditions and Land Use:** The subject parcel contains a one-story, 2,890-square-foot multi-tenant commercial building. City Assessor records state that it was constructed in 2011.

**Surrounding Land Use and Zoning:**

- Northwest: Demetral Field, a City of Madison park, in the Parks and Recreation (PR) Zoning District;
- Northeast: Single-family residences, in the Traditional Residential – Consistent 4 (TR-C4) Zoning District;
- Southeast: Across E. Johnson Street is East High School, in the Campus Institutional (CI) Zoning District; and
- Southwest: The N. Fourth Street right-of-way which directly abuts the subject site and contains approximately 24 perpendicular parking stalls; beyond which is the James Reeb Unitarian-Universalist Church, in the Neighborhood Mixed-Use (NMX) Zoning District.

**Adopted Land Use Plan:** The [Comprehensive Plan \(2006\)](#) recommends Low-Density Residential uses for this property. The [Emerson East-Eken Park-Yahara Neighborhood Plan \(2016\)](#) makes no specific recommendation about the subject parcel.

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

Requirements	Required	Proposed
Front Yard Setback	None	Adequate
Side Yard Setback: Where proposed buildings or abutting buildings have window openings in side walls within 6 feet of lot line.	One-story: 5'	Existing setback
Side Yard Setback: Where buildings abut residentially-zoned lots at side lot line.	5'	Existing setback
Rear Yard Setback	20'	Existing setback
Maximum Lot Coverage	75%	Existing lot coverage
Maximum Building Height	3 stories/ 40'	Existing 1 story building
Number Parking Stalls	<b>Proposed restaurant-tavern:</b> 15% of capacity of persons (7) <b>Existing restaurant:</b> 15% of capacity of persons (4) (11 total)	None <i>(See Comment #13)</i>
Accessible Stalls	None	None
Loading	None	None
Number Bike Parking Stalls	<b>Proposed restaurant-tavern:</b> 5% of capacity of persons (2) <b>Existing restaurant:</b> 5% of capacity of persons (2) (4 total)	6
Landscaping and Screening	Not required	Existing landscaping <i>(See Comments #14 &amp; #15)</i>
Lighting	Not required	Existing lighting
Building Forms	Not required	Existing building
<b>Other Critical Zoning Items</b>	Adjacent to Park; Barrier Free (ILHR 69)	

*Table Prepared by Jenny Kirchgatter, Assistant Zoning Administrator*

**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 seven day-a-week Metro service along E. Johnson Street.

## Previous Approvals

On April 11, 2011, the Plan Commission approved a demolition permit and conditional use for the subject site to raze a former machine shop and allow construction of a one-story structure with two retail tenant spaces adjacent to a city park at 2202 E. Johnson Street.

On November 10, 2011, a minor alteration to the existing conditional use was approved to allow for the establishment of a bakery at the subject building in the building's northern tenant space (i.e. the tenant space that is germane to this staff report). The approval had the following conditions: 1) a 20-person capacity bakery/café; 2) the hours of operation: 7:00 am – 2:30 pm; 3) the baker/employee may work flexible hours; and 4) the A/C unit for bakery to be shifted to rear (toward the park).

On July 7, 2014, the Plan Commission approved a conditional use to establish an outdoor eating area for the subject site. The approved outdoor eating area had a 14-person capacity and consisted of seven 2-seat tables adjacent to the building and shared between the building's two restaurant tenants. Additionally, as part of the approved proposal, 10-inch planter boxes were installed along the outer edge of the outdoor eating area in order to define the space and separate it from the six-foot public sidewalk which also runs along the building's western façade.

## Project Description

The applicants with El Sabor de Puebla, LLC. propose to establish a restaurant-tavern with an outdoor seating area in an existing commercial building with intent to serve both food and beverage (including alcoholic beverages) in this area. They will be moving their restaurant from its current location on the 1100 block of Williamson Street.

The restaurant-tavern will be located in the roughly 1,200-square-foot, northern tenant space (i.e. the tenant space labeled "B" on the site plan included in the Plan Commission's packet of materials). (Milio's Sandwiches is the other tenant, located at the corner with E. Johnson Street, in the tenant space labeled "A"). The applicants are requesting a capacity of 36 people for the restaurant tavern (note: the final details of the seating plan and capacity to be approved by the Building Inspection Unit). The main access will be from the entrance on the building's southwestern façade. The applicants propose no exterior alterations and only minor interior alterations. The interior space will consist of a roughly 430-square-foot restaurant area, a 200-square-foot retail area, a 450-square-foot kitchen (off of which is an 85-square-foot office). Bathrooms, accessed off of the restaurant space, will be shared with the building's other tenant. Regarding the restaurant-tavern's hours of operation, the applicants are requesting 7:00 am – 10:00 p.m., seven days per week. Moving forward, the applicants may shift to five or six days per week, depending on the demand at this new location.

The applicants are also requesting an outdoor eating area with a capacity of six people (note: the final details of the seating plan and capacity to be approved by the Building Inspection Unit). It will be located on the existing twenty-five feet by roughly six feet patio area directly in front of their tenant space. It should be noted that the site already has an existing conditional use for an outdoor eating area with a capacity of 14 people via seven 2-person tables located along the building's western façade (and shared between the building's two tenant spaces). The applicants are applying for a new conditional use approval for the outdoor eating area located in front of their tenant space due to the change in use (from bakery to restaurant-tavern) as well as the fact that they would like to extend the hours of operation. That said, the applicants have also stated that no live nor amplified music will be held in this patio area.

All-day Metro service is provided along E. Johnson Street, and many of the nearby roads either have bicycle accommodations or else are bicycle-friendly. Bicycle parking is provided at two points around the building: two stalls along the E. Johnson Street frontage and three stalls at the northwest corner of the building. Regarding automobile parking, roughly 24 public spaces are located immediately to the southwest of the subject site, in the N. Fourth Street right-of-way. There is also on-street parking along the southeast side of the block of E. Johnson Street, between N. Fourth and N. Fifth Streets. As no parking is provided on site, the applicant will need to request a parking reduction. As the required number of stalls is less than 20, this parking reduction is able to be administratively approved by the City's Zoning Administrator. Deliveries will be handled via the door located on the northern façade and leads directly into the kitchen. Refuse will also be handled in a similar fashion.

As of the time of writing, the applicants had yet to obtain approval from the Alcohol License Review Committee (ALRC) in order to serve beer, wine and liquor in either the restaurant or the outdoor eating area.

Lastly, as part of this request, in order to mitigate the noise impacts – primarily to the single-family residence located to the northeast – the applicants are voluntarily proposing to do two things: 1) to add sound-proofing materials to the trash enclosure structure/area and 2) to not take out trash after 9:00 pm but instead in the morning.

## Analysis and Conclusion

**Conditional Use Standards** – In regards to the approval standards, the Plan Commission shall not approve a conditional use without due consideration of the City's adopted plan recommendations, design guidelines, and finding that all of the conditional use standards of §28.183(6) MGO are met. The Planning Division believes that if well-managed, the proposed restaurant-tavern and outdoor eating area should not result in significant impacts to the surrounding properties. Factors such as the limited size of the proposed restaurant and especially the patio; the lack of any amplified or live music on the exterior; the location on the side of the building away from the single-family residence (in the same location of the previously approved and existing outdoor eating area); and the proposed conditions of approval will help mitigate anticipated impacts. If approved, the Plan Commission retains continuing jurisdiction over this conditional use, meaning that should complaints be filed, the Plan Commission could take further action on this conditional use as allowed in MGO Section 28.183(9)(d).

**Land Use and Plan Consistency** – This proposed use is compatible with the [Comprehensive Plan \(2006\)](#) which recommends Low-Density Residential uses for this property as the Plan specifically notes that within Low-Density Residential areas, "*commercial uses are limited to small-scale establishments providing convenience goods or services to neighborhood residents.*" (Comprehensive Plan, Page 2-81). Staff believe the proposed restaurant-tavern with outdoor eating area, given its very modest size, ethnic menu, and past history at its previous location, will continue to be neighborhood-oriented.

**Conclusion** – Staff believes that the proposed restaurant-tavern and associated outdoor eating area can be found to meet the conditional use approval standards and recommends that it be approved by the Plan Commission. At the time of report writing, staff was not aware of any concerns on this request.

## Recommendation

### Planning Division Recommendation (Contact Chris Wells, (608) 261-9135)

The Planning Division recommends that the Plan Commission find that the approval standards for Conditional Uses are met and **approve** the requests to establish a restaurant-tavern and an outdoor eating area in an existing multi-tenant commercial building on a property zoned NMX (Neighborhood Mixed-Use District) at 305 N. Fourth Street. These requests are subject to the input at the public hearing and the conditions recommended by the reviewing agencies.

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

#### Planning Division (Contact Chris Wells, (608) 261-9135)

1. The hours of operation for the restaurant-tavern shall be daily from 7:00 am – 10:00 pm. Future modifications to the hours of operation of the restaurant-tavern in the tenant space addressed as 305 N. Fourth Street, Suite B may be requested by the applicant in the future as a minor alteration of the conditional use following a recommendation by the district alder.
2. The hours of operation for the outdoor eating area located in front of the tenant space addressed as 305 N. Fourth Street, Suite B shall be daily from 7:00 am – 10:00 pm. Future modifications to the hours of operation of the outdoor eating area may be requested by the applicant in the future as a minor alteration of the conditional use following a recommendation by the district alder.
3. The capacity of the outdoor eating area located in front of the tenant space addressed as 305 N. Fourth Street, Suite B shall be six persons (note: the final details of the seating plan and capacity to be approved by the Building Inspection Unit). Future modifications to the capacity of the outdoor eating area may be requested by the applicant in the future as a minor alteration of the conditional use following a recommendation by the district alder and approval from the Building Inspection Unit.
4. There shall be no amplified sound, including, but not limited to television, ambient music or musical performances, in the outdoor eating area located in front of the tenant space addressed as 305 N. Fourth Street, Suite B.

#### Engineering Division (Main Office) (Contact Brenda Stanley, (608) 261-9127)

5. Less than 4,000 sf disturbed area, no Erosion Control or Storm Water Management Permits required.

#### City Engineering Review Mapping (Contact Jeff Quamme, (608) 266-4097)

The agency reviewed this request and has recommended no conditions or approval.

**Traffic Engineering Division** (Contact Eric Halvorson, (608) 266-6527)

6. 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.
7. 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.
8. 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.
9. All parking facility design shall conform to MGO standards, as set in section 10.08(6).
10. Applicant shall submit for review a waste removal plan. This shall include vehicular turning movements.
11. Applicant shall submit for review a Commercial Delivery Plan. This plan will include times, vehicle size, use of loading zones and all related turning movements.
12. The applicant shall demonstrate use of loading zone with turning template.

**Zoning Division** (Contact Jenny Kirchgatter, (608) 266-4569)

13. Vehicle parking is required at a minimum amount of 15% of capacity of persons. Verify the capacity of the proposed restaurant-tavern and existing outdoor eating area. A vehicle parking reduction may be required per Section 28.141(5). A vehicle parking reduction of up to 20 spaces may be approved by the Zoning Administrator. A previous parking stall reduction of 9 stalls was approved for this multi-tenant building.
14. Show the location of the proposed exterior mechanical equipment and screening on the site plan. All rooftop and ground level mechanical equipment and utilities shall be fully screened from view from any street or residential district, as viewed from six (6) feet above ground level. Screening may consist of a building wall or fence and/or landscaping as approved by the Zoning Administrator. Provide details of the screening.
15. Show the location of the Zoning district boundary screening on the site plan. Screening shall be provided alongside and rear property boundaries between commercial/ mixed-use districts and residential districts. Screening shall consist of a solid wall, solid fence, or hedge with year-round foliage, between six (6) and eight (8) feet in height.
16. The capacity shall be established for the existing outdoor eating area. Occupancy is established by the Building Inspection Unit. Contact Building Inspection staff at (608) 266-4559 to help facilitate this process.

17. Per Section 28.186(4)(b), the property owner or operator is required to bring the property into compliance with all elements of the approved site plans by the date established by the Zoning Administrator as part of the site and building plan approval. Work with Zoning staff to establish a final site compliance date.
18. 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. Signage permits are issued by the Zoning Section of the Department of Planning and Community and Economic Development.

**Madison Fire Department** (Contact Bill Sullivan, (608) 261-9658)

The agency reviewed this request and has recommended no conditions or approval.

**Parks/Forestry Review** (Contact Janet Schmidt, (608) 261-9688)

The agency reviewed this request and has recommended no conditions or approval.

**Water Utility** (Contact Adam Wiederhoeft, (608) 266-9121)

The agency reviewed this request and has recommended no conditions or approval.

**Metro Transit** (Contact Timothy Sobota, (608) 261-4289)

The agency reviewed this request and has recommended no conditions or approval.