



PREPARED FOR THE PLAN COMMISSION

Project Address: 224 Ohio Avenue
Application Type: Conditional Use
Legistar File ID # [60479](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted.

Summary

Applicant: Josh Swentzel, Ohio Tavern, Inc.; 1207 Williamson Street; Madison.

Contact Person: Tom Bobek, Bobek & Bobek Construction; 3125 Hawks Haven Trail; DeForest.

Property Owner: Terre L. Sims; 5307 Golden Grove Circle; McFarland.

Requested Action: Approval of a conditional use for an outdoor eating area for a restaurant-tavern located at 224 Ohio Avenue.

Proposal Summary: The Ohio Tavern is requesting approval of a conditional use for an outdoor eating area behind the restaurant-tavern on a portion of the parking lot located in the rear yard of the two-story mixed-use building. Construction of the outdoor eating area will begin as soon as all regulatory approvals have been granted and the conditions of approval have been met.

Applicable Regulations & Standards: Table 28-D2 in Section 28.061(1) of the Zoning Code identifies outdoor eating areas for restaurants and taverns as a conditional accessory use in the TSS (Traditional Shopping Street) zoning district. Section 28.183 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 restaurant-tavern located at 224 Ohio Avenue subject to input at the public hearing and the conditions from reviewing agencies beginning on page 4 of this report.

Background Information

Parcel Location: The subject site is an approximately 3,120 square-foot parcel located at the northwestern corner of Ohio Avenue and Atwood Avenue; Aldermanic District 6 (Rummel); Madison Metropolitan School District.

Existing Conditions and Land Use: The restaurant-tavern occupies the rear approximately half of the first floor of a two-story mixed-use building located on the northwestern corner of Atwood and Ohio avenues, with a second small commercial tenant space located in the front of the building adjacent to Atwood Avenue. The building includes two apartments on the second floor according to City records. A parking lot is located north of the building, which is shared with the adjacent parcel at 2328 Atwood. The shared lot continues onto the adjacent City-owned transportation corridor to the north. The site is zoned TSS (Traditional Shopping Street District).

Surrounding Land Use and Zoning:

North: Capital City Trail;

South: One- and two-story mixed-use and commercial buildings along Atwood Avenue, zoned TSS (Traditional Shopping Street District);

East: Dane County Juvenile Shelter across Ohio Avenue, zoned TSS;

West: One- and two-story mixed-use, residential, and commercial buildings along Atwood Avenue, zoned TSS.

Adopted Land Use Plans: The Comprehensive Plan identifies the subject site and neighboring properties to the west and across Atwood Avenue for Neighborhood Mixed-Use (NMU) development. To the east, the juvenile shelter and St. Bernard’s Church are recommended for Special Institutional uses, while the abutting transportation corridor is recommended for Park and Open Space.

The subject site is also located within the boundaries of the 2000 Schenk-Atwood-Starkweather-Worthington Park Neighborhood Plan, which recognizes Schenk’s Corners and the Schenk-Atwood Area Business District as the “strong commercial base” of those neighborhoods. The plan places an importance on attracting neighborhood-oriented businesses to the area, maintaining an attractive historic appearance, making physical improvements to assure an attractive business district, and promoting the business district as a shopping destination to enhance both the appearance and the economic viability of the area.

Zoning Summary: The site is zoned TSS (Traditional Shopping Street District):

Requirements	Required	Proposed
Front Yard	0’	Existing
Side Yards	0’	Existing
Rear Yard	20’	Existing
Usable Open Space	N/A	---
Maximum Lot Coverage	85%	Existing; no change proposed
Maximum Building Height	3 stories / 40’	2 stories (Existing)
Auto Parking	15% of capacity for restaurant-tavern	0 (See Zoning conditions)
Bike Parking	5% of capacity for restaurant-tavern	0 (See Zoning conditions)
Loading	None	0
Building Forms	Commercial Block Building	Existing; no change proposed
Other Critical Zoning Items		
Yes:	Utility Easements	
No:	Urban Design, Floodplain, Wellhead Protection, Landmarks, Adjacent to Park, Barrier Free	
<i>Prepared by: Jacob Moskowitz, Assistant Zoning Administrator</i>		

Environmental Corridor Status: The property is not located within a mapped environmental corridor.

Public Utilities and Services: The site is served by a full range of urban services, including seven-day Metro Transit service along Atwood Avenue.

Supplemental Regulations

Section 28.151 of the Zoning Code includes the following supplemental regulations for Outdoor Eating Areas:

- (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 is seeking approval of a conditional use for an outdoor eating area to serve the restaurant-tavern located at the rear of the first floor of a two-story mixed-use building at the northwestern corner of Ohio Avenue and Atwood Avenue. The building also includes a second commercial space on the front half of the building adjacent Atwood Avenue, and two second floor apartments. A small parking lot exists along the north wall of the building, which is shared with the adjacent L-shaped parcel at 2328 Atwood. The lot continues north onto a portion of the adjacent City-owned transportation corridor that includes the Capital City Trail.

The main entrance to the restaurant-tavern faces Ohio Avenue. The proposed outdoor eating area will be constructed on a portion of the parking lot adjacent to the northern wall of the building, with access to the outdoor area from a secondary entrance to the restaurant-tavern located along the northern wall. The outdoor eating area will contain five tables and 20 seats and be enclosed by a three-foot tall horizontal panel wall accented by post-top lights. The letter of intent proposes for the outdoor service to operate until 10:00 PM, seven days a week. The letter indicates that the patio will be available from opening, which is not specified in letter of intent, but is 11:30 AM or 3:00 PM depending on the day of the week according to the tavern's website, <http://theohiotavern.com>.

The Planning Division believes that the conditional use standards and supplemental regulations for the proposed outdoor eating area can be met subject to the hours of operation contained in the letter of intent and the customary prohibition on outdoor amplified sound. Staff does not believe that the proposed outdoor area will have an adverse impact on the uses, values and enjoyment or normal and orderly development of surrounding properties, which includes a mix of commercial, residential, and institutional uses nearby. No alder, public, or neighborhood association comments have been received as of the writing of this report that would suggest that the Plan Commission could not approve the request as submitted. As with any conditional use, the Plan Commission retains continuing jurisdiction in the event that complaints are received about any of the conditional uses associated with the subject site, which could result in more restrictive conditions being applied if deemed necessary.

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 restaurant-tavern located at 224 Ohio Avenue subject to input at the public hearing and the following conditions:

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

Planning Division

1. That the hours of operation for the outdoor eating area shall be until 10:00 PM as stated in the letter of intent. No service shall occur in the outdoor area after the closing hour on a given day, and patrons may not utilize the outdoor patio area after those hours for smoking or otherwise. The Director of the Planning Division may consider a minor alteration to the conditional use in the future to further modify the hours of operation for the outdoor eating area following a recommendation by the district alder.
2. That the door to the outdoor eating area remain closed [not be propped open] at all times.
3. Outdoor amplified sound, including from televisions, ambient music, or musical performance, is prohibited.
4. The applicant shall submit an accurate site plan prior to final approval and issuance of building or occupancy permits that clearly shows the existing building, proposed outdoor eating area, remaining parking lot, including the portion of the parking lot located on the adjacent City parcel, and property lines. The site plan shall include dimensions of the outdoor area and identify where the emergency exit from the patio will be located.

City Engineering Division (Contact Brenda Stanley, 261-9127)

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

City Engineering Division–Mapping Section (Contact Jeff Quamme, 266-4097)

5. Identify on the plans the lot and block numbers of the recorded plat. The site plan shall show the location of the property lines in the vicinity of the proposed patio to be constructed.
6. Provide the complete legal description of the site or property being subjected to this application on the site plan.
7. The parcel is 30 feet wide. The patio deck is dimensioned as 28 feet wide. It appears the deck would actually be 24 feet wide when scaling the drawing. Correct any incorrect dimensions.

Zoning Administrator (Contact Jacob Moskowitz, 266-4560)

8. Submit an overall site plan showing the location of the outdoor seating area.
9. A vehicle parking reduction will be required per Section 28.141(5). Submit a request for a parking reduction with the final plan submittal including information to support the argument for reducing the required number of spaces. As the commercial tenant spaces are leased, the entire development must reflect compliance in the required amount, type and number of vehicle parking spaces, to be reviewed prior to obtaining zoning approval for each future tenant space use. Future parking reductions may be required prior to obtaining zoning approval for future tenant uses.
10. Bicycle parking shall comply with the requirements of Sections 28.141(4)(g) and 28.141(11) for all tenants in the multi-tenant building. Provide a minimum of 5% of capacity in short-term bicycle parking stalls located in a convenient and visible area on a paved or impervious surface. Bicycle parking shall be located in a convenient

and visible area on a paved or impervious surface within 100 feet of a principal entrance. Note: A bicycle stall is a minimum two (2) feet by six (6) feet with a five (5)-foot wide access area. Provide a detail of the existing or proposed bike racks.

Fire Department (Contact Bill Sullivan, 261-9658)

11. Ensure exit hardware on the exit gate complies with the IBC Chapter 10.

Traffic Engineering Division (Contact Sean Malloy, 266-5987)

12. The applicant shall provide a clearly defined five (5)-foot wide walkway clear of all obstructions to assist citizens with disabilities, especially those who use a wheelchair or are visually impaired. Obstructions include but are not limited to tree grates, planters, benches, parked vehicle overhang, signage and doors that swing outward into walkway.

Water Utility (Contact Adam Wiederhoeft, 266-9121)

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

Parks Division (Contact Ann Freiwald, 243-2848)

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

Metro Transit (Contact Tim Sobota, 261-4289)

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