



Report to the Plan Commission

May 16, 2011

Legistar I.D. #22434
4325 Lien Road
Conditional Use

Report Prepared By:
Kevin Firchow, AICP
Planning Division

Requested Action: Approval of a conditional use to add an outdoor eating area and outdoor recreation area (volleyball courts) and to a restaurant and tavern.

Applicable Regulations & Standards: Section 28.12 (11) provides the guidelines and regulations for the approval of conditional uses. Section 28.09(3)(d)2 identifies outdoor eating and recreation areas of restaurants and taverns as conditional uses. Section 28.09(3)(d)32 identifies outdoor recreational areas as conditional uses in the C2 and C3 zoning districts.

Summary Recommendation: The Planning Division recommends that the Plan Commission find that the conditional use standards are met and **approve** the conditional use request to add an outdoor eating area in an existing patio along the north side of the building at 4325 Lien Road, subject to input at the public hearing and the conditions from other reviewing agencies. Due to outstanding questions regarding encroachment issues regarding the sand volleyball courts, the Planning Division further recommends that the request to install and operate seasonal volleyball courts and an associated outdoor eating area be **referred** until further information is furnished by the applicant.

Background Information

Applicant: Dale and Debra Wells; My Buddies LLC; 4325 Lien Road; Madison, WI 53704

Contact: Martin Cue; 15 Apostle Island; Madison, WI 53719

Property Owner: Capitol Real Estate; 26 Schroeder Court; Madison, WI 53711

Proposal: The applicant proposes to add an outdoor eating area and outdoor recreation area (volleyball courts) and to a restaurant and tavern. The applicant wishes to proceed as soon as all necessary approvals have been granted.

Parcel Location: The subject property is a 39,953 square foot (0.92-acre) parcel on Lien Road, part of a larger planned commercial site that includes the east side Target. The property is within Aldermanic District 17 and the Madison Metropolitan School District.

Existing Conditions: The subject site includes a vacant restaurant building located within a larger planned commercial site.

Surrounding Land Use and Zoning:

North: Commercial development surrounding East Towne Mall, zoned C3L (Highway Commercial and Distribution District);

South: Balance of this planned commercial site, zoned C3 (Highway Commercial) with wetlands, beyond;

East: Surface parking lot that is part of this planned commercial site with the nearest residential properties over 1,500 square feet beyond; and

West: Balance of the planned commercial site, with two residential properties zoned C3 approximately 825 feet beyond the subject site.

Adopted Land Use Plan: The Comprehensive Plan recommends general commercial uses for this site.

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

Public Utilities and Services: This property is served by a full range of urban services.

Zoning Summary: The property is zoned C3 (Highway Commercial District)

Bulk Requirements	Required	Proposed
Lot Area	6,000 sq. ft.	Existing/adequate
Lot width	50'	Existing/adequate
Front yard	0'	Adequate
Side yards	0'	Adequate
Rear yard	10'	Adequate
Floor area ratio	3.0	less than 1.0
Number parking stalls	(30% of capacity) Capacity set at 221 - 66	21 onsite/ 81 adjacent to site at 4401 Lien Road – 102 total
Accessible stalls	3	5 existing (See Comment #15)
Loading	Yes	Existing
Number bike parking stalls	10	14 existing (See Comment #16)
Landscaping	Yes	Yes (See Comment # 22)
Lighting	Yes	Yes (See Comment #21)
Other Critical Zoning Items	Planned comm. site may require administrative review, utility easements, Barrier Free ILHR 69	

Table prepared by Patrick Anderson, Assistant Zoning Administrator

Project Description

The applicant requests approval of two conditional uses: 1) Seasonal installation and operation of sand volleyball courts in a portion of the adjacent parking lot and 2) Operation of outdoor eating areas adjacent to the restaurant. These requests are subject to the conditional use standards of Section 28.12 (11) of the Zoning Ordinance.

Regarding the first request, two (2) seasonal sand volleyball courts are proposed along the building's east side in the adjacent parking lot. The courts would be installed within a sandbox-type enclosure that would hold between 12 and 36 inches of sand. A cross-section detail of this improvement is shown on the applicant's site plan. The courts and portions of the surrounding area would be surrounded by a chain link fence and include additional netting (up to a height of 15 feet) to keep balls within the playing area. There is a discrepancy between the site plan and letter of intent regarding the height of the fence, and staff prefer the more typical 6 foot fence be utilized. Netting details should be provided for staff approval.

The volleyball courts would close at 10 pm, nightly. The letter of intent notes that there may be league and tournament play, though that will not extend the nightly hours of operation. The applicant indicates that no additional lighting will be provided from that which is already approved. The exact dates when the volleyball improvements will be installed have not been specified, though staff recommend they be limited to the months of May through October, similar to other volleyball operations. The applicant could clarify if alternative months are desired.

The site plan shows that approximately 30 parking stalls will be removed during operation the volleyball season. The applicant suggests that some parking lot striping would seasonally be re-striped. Details of the parking lot striping for both the volleyball and non-volleyball plans should be clarified for approval by City agencies.

While not depicted on the plans, portions of the proposed courts encroach upon an adjacent property within this Planned Commercial Site. At the time of report writing, staff understands that that two property owners are in discussions on possible agreements, but staff is not aware that an agreement has yet been reached. At this time, staff recommend referral of that portion of the request. If further information is made available prior to the meeting, an addendum will be provided.

The primary outdoor eating area is proposed adjacent to the north side of the building within an existing patio. City records indicate this area had been previously been utilized for outdoor eating, though due to periods of inactivity, new conditional use approval is required. The applicant requests a capacity of 40 in this area, and that number requires approval by City Building Inspection staff. With final approval of the capacity numbers, the Planning Division does not have concerns regarding this outdoor eating area. Staff note that there are not residential properties within close proximity to the site that would likely be impacted.

An additional outdoor eating area is proposed along the west side of the building. This improvement appears to function as part of the fenced in area associated with the sand volleyball court. No further details are provided in the letter of intent. The site plan indicates this area is now grassed, though no permanent changes are proposed. A capacity of 20 is proposed. Based on the application, staff would recommend this item be considered with the volleyball plans and referred. Any permanent improvements related to this portion of the request would need to be clarified and approved by staff as a condition of approval.

Staff was not aware of any neighborhood concerns on these requests at the time of report writing. The proposal is not in conflict with the recommendations of the Comprehensive Plan. Staff do not anticipate the project will negatively impact surrounding properties and believe the conditional use standards can likely be met. However, considering the aforementioned encroachment issue, staff recommend referral of the volleyball-related requests until that is resolved. Staff believe the outdoor eating area on the north side of the building can be approved at this time.

Recommendations and Proposed Conditions of Approval

Major/Non-Standard Conditions are Shaded

Planning Division Recommendation (Contact Kevin Firchow, 267-1150)

The Planning Division recommends that the Plan Commission find that the conditional use standards are met and **approve** the conditional use request to add an outdoor eating area in an existing patio along the north side of the building at 4325 Lien Road, subject to input at the public hearing and the conditions from other reviewing agencies. Planning Division conditions 1 and 2 relate to this aspect of the request.

Due to outstanding questions regarding encroachment issues regarding the sand volleyball courts, the Planning Division further recommends that the request to install and operate a seasonal volleyball courts and an associated outdoor eating area be **referred** until further information is furnished by the applicant.

1. That the applicant confirms the proposed outdoor capacities with City Building Inspection.
2. That the applicant clarifies any permanent (non-seasonal) changes and that these are clearly indicated on plans and approved by Planning Division staff.
3. That the seasonal improvements shall only be installed between the months of May and October. All seasonally related seasonal improvements shall be removed at the end of the season and the site made consistent with non-seasonal site plan.
4. That the applicant provides clarification and details on seasonal changes to parking lot striping, for approval by appropriate city agencies including Traffic Engineering and Fire.
5. That the temporary chain-link fence be six (6) feet in height and that netting details be provided for staff approval.
6. That no extra speakers or sound producing devices will be provided for the volleyball courts.
7. That the hours of operation for the volleyball court end by 10:00, nightly.
8. That no additional lighting is proposed at this time and that lighting remains consistent with existing approved plans.

City Engineering Division (Contact Janet Dailey, 261-9688)

9. Portions of the proposed volleyball courts do not appear to be on property owned by the applicant: My Buddies, LLC. Please provide recorded land ownership deeds or recorded land lease.
10. Existing recorded Declaration of Operation and Reciprocal Easement Document No. 2759228 as well as three different amendments (Document Nos. 2802993, 2803538 and 3092166) contain certain conditions and language defining the shared tenants and uses of the existing Planned Commercial Site. There may need to be modifications to these existing documents as well as application involvement by all other tenants affected by this proposal.
11. If necessary, the applicant shall further filter stormwater leaving the site by using silt sock downstream of the volleyball courts.
12. The final site plan shall include all existing property and right-of-way lines as well as reference to the recorded documents of any necessary instruments further amending the Declaration of Operation and Reciprocal Easement.

Traffic Engineering Division (Contact Bryan Walker, 267-8754)

13. When the applicant submits final plans of one contiguous plan for approval, the applicant shall show the following: items in the terrace as existing (e.g., signs and street light poles), type of surfaces, existing property lines, addresses, showing all easements, all pavement markings, building placement, and stalls, adjacent driveway approaches to lots on either side and across the street, signage, percent of slope, vehicle routes, dimensions of radii, aisles, driveways, stalls including the two (2) feet overhang, and a scaled drawing at 1" = 20'.

14. Applicant shall submit two different seasonal plans, one showing the layout of the parking with the volleyball area during the summer and one showing the layout of the parking without the volleyball area during the winter. Specific dates of each season shall be noted on the face of each plan.

Zoning Administrator (Contact Pat Anderson, 266-5978)

15. Parking requirements for persons with disabilities must comply with City of Madison General Ordinances Section 28.11 (3) 6.(m) which includes all applicable State accessible requirements, including but not limited to:
 - a. Provide the minimum for accessible stalls striped per State requirements. A minimum of one of the stalls shall be a van accessible stall 8' wide with an 8' striped out area adjacent.
 - b. Show signage at the head of the stalls.
 - c. Show the accessible path from the stalls to the building.
16. Bike parking shall comply with City of Madison General Ordinances Section 28.11.
17. Provide ten (10) bike parking stalls in a safe and convenient location on an impervious surface to be shown on the final plan. The bike racks shall be securely anchored to the ground or building to prevent the racks from moving. NOTE: A bike-parking stall is two feet by six feet with a five-foot access area.
18. Meet applicable building/fire codes for the additional outdoor capacity and for ingress and egress of the establishment with both of the proposed outdoor occupancy areas and at the site. Occupancy is established by the Building Inspection Unit. Contact Mike VanErem at 266-4559 to help facilitate this process.
19. Contact the City Clerk regarding changes to licensed areas, should you choose to serve food/drink or alcohol in the outdoor areas.
20. Signage approvals are not granted by the Plan Commission. Signage must be reviewed for compliance with Chapter 31 of the Madison General Ordinances. Sign permits must be issued by the Zoning Section of the Department of Planning and Community and Economic Development prior to sign installations. Banners, Pennants, temporary signs, portable signs etc. are not approved as a part of this project.
21. Exterior lighting provided shall be in accordance with City of Madison General Ordinances Section 10.085. Provide an exterior lighting plan and fixture cut sheets, showing at least .5 foot candle on any surface on any lot and an average of .75 foot-candles. The maximum light trespass shall be 0.5 fc at 10 ft from the adjacent lot line.
22. Parking lot plans with greater than twenty (20) stalls shall comply with City of Madison General Ordinances Section 28.04 (12). Landscape plans must be stamped by a registered landscape architect. Provide a landscape worksheet with the final plans that shows that the landscaping provided meets the point and required tree ordinances. In order to count toward required points, the landscaping shall be within 15' and 20' of the parking lot depending on the type of landscape element. (Note: The required trees do not count toward the landscape point total.) Planting islands shall consist of at least 75% vegetative cover, including trees, shrubs, ground cover, and/or grass. Up to 25% of the island surface may be brick pavers, mulch or other non-vegetative cover. All plant materials in islands shall be protected from vehicles by concrete curbs.

23. Since the site will contain a seasonal use (sand volleyball court) two approved site plans must be approved and on-file with the zoning office, showing both the year-round condition and the seasonal recreational area as it relates to the parking lot.

Fire Department (Contact Bill Sullivan, 261-9658)

24. The Madison Fire Department does not object to this project provided exiting complies with all Building and Fire Codes.

Water Utility (Contact Dennis Cawley, 261-9243)

25. This property is not in a Wellhead Protection District. All wells located on this property shall be abandoned if no valid well operation permit has been obtained from the Madison Water Utility. The Water Utility will not need to sign off the final plans, nor need a copy of the approved plans.

Metro Transit (Contact Tim Sobota, 261-4289)

This agency did not submit a response for this request.