



PREPARED FOR THE PLAN COMMISSION

Project Address: 506-518 E Wilson Street and 134-148 S Blair Street

Application Type: PD(SIP) Alteration

Legistar File ID # [77018](#)

Prepared By: Timothy M. Parks, Planning Division, with assistance by Matt Tucker, Building Inspection Division; the report includes comments from other City agencies, as noted.

Summary

Applicant & Property Owner: Robert L. Worm, JDJ Import Company, LLC; 516 E Wilson Street; Madison.

Contact Person: Kevin Burow, Knothe & Bruce Architects, LLC; 7601 University Avenue, Suite 201; Middleton.

Requested Action: Consideration of an alteration to an approved Planned Development–Specific Implementation Plan (PD-SIP) to allow outdoor recreation, weekly outdoor events, and special seasonal events in the parking lot for the adjacent restaurant-taverns at 506-518 E Wilson Street and 134-148 S Blair Street.

Proposal Summary: The applicant and property owner are requesting Plan Commission approval to use the parking lot located adjacent to the Come Back In, Essen Haus, and Up North Pub restaurant-taverns/taverns for a variety of seasonal uses. The request includes previously approved sand volleyball during the summer months and six special events spread throughout the year, as well as the introduction of live music on three evenings a week. The applicant would like to commence the outdoor uses as soon as all regulatory approvals have been granted.

Applicable Regulations & Standards: Section 28.098(6) states that alterations to Planned Developments may be approved by the Plan Commission if the requested alterations are consistent with the concept approved by the Common Council using the review standards in Section 28.098(2).

Review Required By: Plan Commission. Any exterior alterations related to the outdoor uses may be reviewed by the Secretary of the Urban Design Commission prior to issuance of permits.

Summary Recommendation: The Planning Division recommends that the Plan Commission find the proposed alteration to allow outdoor recreation, weekly outdoor events, and special seasonal events in the parking lot for the adjacent restaurant-taverns at 506-518 E Wilson Street and 134-148 S Blair Street is consistent with the Specific Implementation Plan approved by the Common Council and the Planned Development standards and **approve** the request, subject to input at the public hearing and the conditions from reviewing agencies beginning on page 6 of this report.

Background Information

Parcel Location: Approximately 2.4 acres generally located at the northwestern corner of E Wilson Street and S Blair Street, Ald. Dist. 6 (Rummel); Madison Metropolitan School District. Portions of the subject site are split between the First Settlement Historic District and the Third Lake Ridge Historic District.

Existing Conditions and Land Use: The subject site is zoned PD and is developed with the Come Back In at 508 E Wilson Street, the Essen Haus at 514 E Wilson Street, and Up North Pub at 148-150 S Blair Street. A large surface parking lot extends northerly from the rear of the buildings housing the restaurant-taverns/taverns, which is

accessed from S Blair Street. The owner also owns the Hotel Ruby Marie, which occupies the Wilson-Blair corner and is zoned UMX (Urban Mixed-Use District).

Surrounding Land Uses and Zoning:

North: Residential development ranging from single and two-family homes to larger structures including the Franklin Street Condominiums, zoned DR1 (Downtown Residential 1 District) and PD;

South: E Wilson Street and its intersection with John Nolen Drive and Williamson Street, beyond;

East: Madison Gas and Electric offices, zoned TE (Traditional Employment District); and

West: The Germania Condominiums, zoned PD, and a variety of residential uses on S Franklin Street, zoned DR1.

Adopted Land Use Plans: The 2012 Downtown Plan recommends the E Wilson Street frontage of the subject site for Downtown Core Mixed-Use and identifies the remainder of the site for predominantly residential uses. The parking lot is identified on the Parcel Analysis map on page 25 as a site for potential redevelopment or infill development. The site is located in the First Settlement neighborhood/district, and most of the site is recommended for development with up to six stories, except the western edge of the parking lot, which is limited to three stories.

Zoning Summary: The site is zoned PD. The SIP alteration will be reviewed in the following sections.

Other Critical Zoning Items	
Yes:	Urban Design (Planned Development), Barrier Free, Utility Easements
No:	Floodplain, Wellhead Protection, Landmarks, Waterfront Development, Adjacent to Park
<i>Prepared by: Planning and Zoning staff</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 on E Wilson Street.

Previous Approvals

On February 2, 1994, the Common Council approved a request to rezone 506-518 E Wilson Street, 125-145 S Franklin Street, and 134-148 S Blair Street from R5 (General Residence District) and C2 (General Commercial District) to Planned Unit Development, General Development Plan (PUD-GDP) [1966 Zoning Code] to allow future construction of 11 townhouses on the east side of S Franklin Street, a three-story, 54-unit apartment building to be located above a partially exposed three-level parking structure on S Blair Street, and a five-story mixed-use building on E Wilson Street with ground floor restaurant-taverns and upper floor apartments.

On February 6, 1996, the Common Council approved a request to rezone 506-518 E Wilson Street, 125-145 S Franklin Street, and 134-148 S Blair Street from PUD-GDP to Planned Unit Development, Specific Implementation Plan (PUD-SIP) [1966 Zoning Code] to allow construction of 11 townhouses on the east side of S Franklin Street, construction of 30 apartments on three floors above the existing two-story restaurant-tavern building on E Wilson Street, and improvements to the shared surface parking lot located along S Blair Street, which was approved with 136 total stalls for the various residential and food and beverage uses within the PUD. The zoning text for the

PUD-SIP included an allowance for up to six outdoor events or festivals “some of which coincide with traditional local sports celebrations.” [Note: Of the two residential projects approved with this Specific Implementation Plan, only the 11 townhouses were built, which became the Germania Condominiums.]

On April 22, 2013, the Plan Commission approved a PD(SIP) alteration for the restaurant-tavern at 514 E Wilson Street to add “Seasonal Outdoor Volleyball as shown on approved plans” as a conditional use to the zoning text for the project to allow sand volleyball in a portion of the parking lot. The approval was granted with a one-year trial period ending on September 8, 2013 and requiring re-approval by the Plan Commission before it could continue the following year.

On March 24, 2014, the Plan Commission approved a conditional use and PD(SIP) alteration to allow re-approval of outdoor recreation (sand volleyball) for the restaurant-tavern at 514 E Wilson Street. The 2014 approval, which is still in effect, allows sand volleyball in the parking lot from the first week of May to the first week of September. On Mondays–Fridays, volleyball is allowed from 5:30 to 10:30 PM, and on Saturdays and Sundays from 12:00 to 9:00 PM. The approval includes a prohibition on outdoor amplified sound “or similar sound-producing devices”.

Project Description

The applicant is requesting Plan Commission approval of an alteration to the approved Specific Implementation Plan for 506-518 E Wilson Street and 134-148 S Blair Street to allow the parking lot located adjacent to the Come Back In, Essen Haus, and Up North Pub restaurant-taverns/ taverns to be used for a variety of seasonal outdoor uses. The intent of the proposed alteration is to consolidate the outdoor uses of the parking under one set of rules and plans.

Background and Context

The proposed alteration has been submitted in response to a notice of violation sent to the applicant by the Building Inspection Division dated May 31, 2022, which ordered that all outdoor music or other outdoor entertainment on the zoning lot containing 134-148 S Blair Street and 506-522 E Wilson Street be discontinued, other than the six permitted special events. The notice ordered the applicant to remove or obtain approvals for all elements added to the site without site plan approval, including outdoor seating, tents, stages, and bike parking, and to install and maintain all elements of the approved site plan, including parking lot striping and accessible parking. The notice stated that recurring weekly outdoor music or other entertainment is not permitted as part of the approved Planned Development or shown on the approved plan.

At this time, the PD zoning approvals on file do not authorize live music outside. City staff became aware in September 2021 that live music events were taking place and that the site had also been permanently altered to accommodate outside music events and outdoor dining areas without necessary approvals. The temporary “Streatery” program during the COVID 19 pandemic allowed for live music to be approved, but the applicant did not apply under that program. Staff contacted the owner in fall 2021 to urge them to apply for the necessary approvals of an alteration to the PD zoning early in 2022 so that they could have zoning in place for the 2022 season.

During fall 2022, the property owner obtained approval of an administrative minor alteration to the PD(SIP) for physical changes to the parking lot. That request included for the allowance to host live music, which staff advised could not be approved through the minor alteration process for the physical site changes.

During the spring, summer, and fall of 2022, the owner continued to host weekly live music events, including several events a week, including after the notice of violation was sent on May 31, 2022. The Police Department was routinely called for “disturbing the peace” noise violations. Additionally, no entertainment license or liquor license associated with these events and this use have been approved by the City, and it was not until the City Attorney’s Office broached the potential for penalties or revocation of the liquor license for the restaurant-taverns that the owner chose to end the live music events.

In addition to the alteration to the PD zoning required to allow for the various outdoor events, the entertainment and liquor licenses for the associated establishments must be modified to accommodate the permission for outdoor music events, which are handed as a separate process through the Alcohol License Review Committee (ALRC) and Common Council.

Current Alteration Request

The proposed alteration includes three elements, including two that have been previously approved in some form or another:

- The applicant generally received approval in 1996 for up to six outdoor events or festivals “some of which coincide with traditional local sports celebrations.” The six outdoor events were included in the final zoning text approved with the Specific Implementation Plan for the 11 townhouse units that became the Germania Condominiums on S Franklin Street. Under the proposed alteration, the applicant proposes to identify what the events are and when up to five of the six events will occur, with the date and duration of up to two of the six to be determined.

These six events would run from 11:00 AM to 9:00 PM. For these six events, a “weekend” would begin on Friday and end on Sunday, except for Memorial Day weekend, which would end on Monday, and “Great Taste of the Midwest Beer Festival” weekend, which may begin on Thursday but end on Sunday. Refer to the ‘Event Plan Layout’ for the use of the site during the six events.

- The applicant is requesting approval to introduce music and live performance on a stage in the parking lot on Sunday, Monday, and Thursday from 4:00-9:00 PM. The stage is shown on the ‘Seasonal Layout’ plan included with the application materials.
- The sand volleyball last approved in 2014 would be incorporated into this approval. The letter of intent dated May 5, 2023 indicates that the volleyball would occur on from 5:30-10:30 PM Monday–Friday from 12:00-9:00 PM on Sunday. The sand volleyball/ outdoor recreation could occur during the other events above. Refer to the ‘Seasonal Layout’ plan for the site layout during the outdoor recreation events.

Per the letter of intent, the applicant would propose to hold the volleyball and live music/performance events in the second and third bullets from March 15 to November 1 as weather allows, although the applicant suggested that he would entertain a shorter period during a community meeting about the alteration held on May 18, 2023. The proposed events and service in the outdoor area would not start before the listed start time and would be completed and the area cleared of attendees by the posted end time.

In anticipation of the consideration of this request originally at the May 8 Plan Commission meeting, a Class 2 notice was published in the Wisconsin State Journal, and postcards noting the date, time, and location of that meeting were sent to the owners and occupants of all properties within 200 feet of the subject site.

Analysis & Conclusion

Alterations to approved Specific Implementation Plans can be approved by the Plan Commission if it determines that the specific request is consistent with the Planned Development approved by the Common Council and that the standards for PD approvals are met.

In this case, the applicant is requesting to centralize approvals for two existing outdoor uses of the parking lot located on S Blair Street behind the Come Back In, Essen Haus, and Up North Pub in the 500-block of E Wilson Street while seeking approval to add a third use of the space. If the Plan Commission does not approve the alteration as submitted, the applicant **would not** be able to legally hold live music/performance events in their parking lot three nights a week as proposed but **would** be able to continue having sand volleyball pursuant to the approvals last granted for that use in 2014, and **would** be able to have up to six events in the parking lot as generally allowed since 1996. Failure to approve the current alteration request would not extinguish the 1996 and 2014 approvals.

In considering the request, staff believes that the Plan Commission may establish conditions to govern the proposed outdoor uses like it has with previous such requests for the site, most recently, the sand volleyball approvals in 2013 and 2014. On one hand, the applicant is proposing to bring further shape to the prior approvals for the six previously undefined and unregulated outdoor events granted in 1996 by identifying what four of the six are and when they would occur, which staff feels is benefit to the public given the relative uncertainty that exists about them now. The incorporation of the outdoor recreation approval under the “umbrella” of this centralized approval is also beneficial from an enforcement and transparency perspective. However, the potential impacts on surrounding properties resulting from the introduction of live music in the parking lot three nights of the week until 9:00 PM also bears consideration by the Plan Commission as it determines whether to approve the current alteration request.

Given the potential for impacts from some or all of the uses requested and the issues that have occurred recently with outdoor activities in the subject parking lot, staff believes that a measured approach should be taken by the Plan Commission should it wish to approve the alteration request. As such, staff proposes that a one-year trial be considered to allow the outdoor uses for the remainder of 2023 only, and that any future use of the parking lot beyond this calendar year require Plan Commission approval following submittal of a new alteration request for 2024, which would be considered by the Commission following a duly noticed public hearing.

In addition to allowing the expanded outdoor uses under conditions for one year on a trial basis to see if the additional programming of the parking lot can occur harmoniously with surrounding property owners and residents, the limited term of the approval might discourage the applicant from perpetuating the use and maintenance of the rare large surface parking lot present in the central/ downtown area in favor of a redevelopment of that portion of the subject site in a manner consistent with adopted plans. Staff would submit that incorporation of outdoor uses in the subject parking lot was originally granted as part of the PD-SIP approval for a larger-scale mixed-use development, only a modest portion of which was implemented, while the outdoor uses have continued for nearly 30 years.

In addition to limiting this approval for one year, staff also recommends that the six outdoor events be limited to the four known events outlined in the letter of intent. (One of the events, Sanger Fest, is not held in Madison annually and would pivot to a second undefined event in off years.) While acknowledging that the applicant can have up to six now without defining what those events are, one of staff’s goals in incorporating the 1996 events

into this alteration is to provide more shape to what those events are and when they will occur, to which the undefined events are contradictory. If the applicant can specify annual events they wish to add to the approvals for the site later, those additional events could be considered as part of a subsequent alteration request.

The Plan Commission should also consider the number of evenings when live music events in the parking lot should be held initially. While the applicant is requesting to hold live music events from 4:00-9:00 PM on Sunday, Monday, and Thursday, the Plan Commission may determine that fewer days and/or a different time period are appropriate for the proposed one-year trial, with the opportunity for the applicant to add additional days or time with subsequent alteration requests for 2024 and future years. Finally, staff recommends that the sand volleyball/outdoor recreation end time be brought forward to 9:00 PM from 10:30 to make the end time for all of the outdoor uses in the parking lot consistent across the board.

Recommendation

Planning Division Recommendation (Contact Timothy M. Parks, 261-9632)

The Planning Division recommends that the Plan Commission find the proposed alteration to allow outdoor recreation, weekly outdoor events, and special seasonal events in the parking lot for the adjacent restaurant-taverns at 506-518 E Wilson Street and 134-148 S Blair Street is consistent with the Specific Implementation Plan approved by the Common Council and the Planned Development standards and **approve** the request 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 sand volleyball/ outdoor recreation, weekly outdoor live music/performance events (Sunday, Monday and Thursday), and seasonal events (see below) in the parking lot for the restaurant-taverns at 506-518 E Wilson Street and 134-148 S Blair Street are hereby approved for calendar year 2023 only. Any future use of the parking lot for any of these uses after December 31, 2023 shall require approval by the Plan Commission following submittal of a new alteration request and noticing of a new public hearing.
2. That this approval for seasonal outdoor events shall only apply to the Oktoberfest, Maifest, Bratfest, and Sangerfest events, and the event associated with the Great Taste of the Midwest Beer Festival in August, as stated and defined in the letter of intent. No undefined/ unspecified seasonal outdoor events shall be allowed. The addition of other seasonal events shall require Plan Commission approval following a noticed public hearing.
3. The seasonal outdoor events shall not start before 11:00 AM and shall end by 9:00 PM. The outdoor live music/performance events shall not start before 4:00 PM on the specific nights approved (Sunday, Monday and Thursday are requested), and shall end by 9:00 PM or whichever time is approved by the Plan Commission. Sand volleyball/outdoor recreation shall only be allowed between 5:30-9:00 PM Monday-Friday and from 12:00-9:00 PM on Sunday. All of the proposed events and service in the outdoor area shall not start before the listed start time and shall end and the area cleared of attendees and outdoor amplified sound and use of sound-producing devices stopped by the 9:00 PM end time.

4. When not associated with an approved outdoor live music/ performance event or approved seasonal outdoor event, no outdoor amplified sound or similar sound-producing devices shall be allowed in the parking lot. (For example, no outdoor amplified sound or similar sound-producing devices shall be allowed for sand volleyball on Sunday at 2:00 PM or Tuesday at 7:15 PM.)
5. The use of the parking lot for the outdoor events in this alteration shall not occur until the applicant has met the conditions of approval outlined herein and signed the letter of approval, after which time all previous approvals for events in the parking lot shall cease.
6. Note: Separate approvals shall be obtained from the Alcohol License Review Committee and Common Council for the entertainment and liquor licenses needed to govern the use of the parking lot for the uses and events outlined in this request. Nothing in this zoning approval shall be construed as approval of the required entertainment and liquor licenses.

7. Meet applicable building/fire codes. The outdoor capacity shall be established. Occupancy is established by the Building Inspection Division.
8. Note: Approval of any exterior alterations related to the proposed outdoor uses not previously approved by the Urban Design Commission shall be approved by the Urban Design Commission or its secretary prior to issuance of building permits.

The following conditions have been submitted by reviewing agencies:

City Engineering Division (Contact Brenda Stanley, (608) 261-9127)

This agency has reviewed the request and recommended no conditions of approval.

City Engineering Division—Mapping Section (Contact Jeff Quamme, (608) 266-4097)

This agency has reviewed the request and recommended no conditions of approval.

Traffic Engineering Division (Contact Sean Malloy, (608) 266-5987)

9. All parking facility design shall conform to the standards in MGO Section 10.08(6).
10. The applicant shall provide a fence/barrier to secure their outdoor seating area from encroaching onto the drive aisle and City right of way to be approved by the Traffic Engineering Division.

Zoning Administrator (Contact Jacob Moskowitz, (608) 266-4450)

This agency has reviewed the request and recommended no conditions of approval.

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

11. All tents shall be located a minimum of 10 feet from buildings.
12. Maintain unobstructed fire access across the back of the buildings as previously established. A rope barrier for traffic control with no more than two (2) supports that can be moved by a single person would be accepted.

ID # 77018
506-518 E Wilson Street
& 134-148 S Blair Street
May 22, 2023
Page 8

Water Utility (Contact Jeff Belshaw, (608) 261-9835)

This agency reviewed the request and has recommended no conditions of approval.

Parks Division (Contact Ann Freiwald, (608) 243-2848)

This agency has reviewed the request and recommended no conditions of approval.

Metro Transit (Contact Tim Sobota, (608) 261-4289)

This agency reviewed the request and has recommended no conditions of approval.

Forestry Section (Contact Brandon Sly, (608) 266-4816)

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