

PLANNING DIVISION STAFF REPORT

April 2, 2018



PREPARED FOR THE PLAN COMMISSION

Project Address: 1602 Gilson Street (District 13 - Ald. Eskrich)
Application Type: Conditional Use
Legistar File ID # [50821](#)
Prepared By: Sydney Prusak, Planning Division
Report Includes Comments from other City Agencies, as noted
Reviewed By: Kevin Firchow, AICP, Principal Planner

Summary

Applicant & Contact: Amanda Funk; Funk Factory Geuzeria; 1602 Gilson Street; Madison, WI 53715

Property Owner: Curt Roeming; 1521 Gilson Street; Madison, WI 53715

Requested Action: The applicant requests approval of a conditional use to create an outdoor eating area for a tasting room for a brewery on a property zoned TE (Traditional Employment District) at 1602 Gilson Street.

Proposal Summary: The applicant proposes to create two outdoor eating areas for an existing tasting room for a brewery. The larger rear patio would be located on the south west corner of the site and would have an outdoor performance platform (stage) and a children's play area. The smaller front patio would be located on the north east corner of the site along Gilson Street. As part of this proposal, the applicant is also requesting approval to host four (4) outdoor amplified events per year, and these events would not extend past 10:00 pm.

Applicable Regulations & Standards: This proposal is subject to the standards for Conditional Uses [M.G.O. §28.183] as M.G.O §28.082(1) lists *outdoor eating areas associated with food and beverage establishments* as a conditional use in the Traditional Employment (TE) District. The Supplemental Regulations [M.G.O. §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 request to establish an outdoor eating area for a brewery on a property zoned TE (Traditional Employment District) at 1602 Gilson 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 16,512-square-foot (0.38-acre) subject site is located along Gilson Street near the intersection with Beld Street. The site is within Aldermanic District 13 (Ald. Eskrich), as well as the Madison Metropolitan School District.

Existing Conditions and Land Use: The subject parcel contains a one-story, 3,555-square-foot building with an existing brewery and tasting room. City Assessor records state that the building was constructed in 1947. The subject site is currently in the process of recording a Certified Survey Map (CSM), which would combine the existing lots addressed 1516 Gilson Street and 1602 Gilson Street into one large lot.

Surrounding Land Use and Zoning:

North: Single family homes, zoned Traditional Residential – Consistent 4 (TR-C4) and Traditional Residential – Consistent 2 (TR-C2);

East: Commercial properties, zoned Traditional Employment (TE) with one single family home also zoned TE;

South: Commercial properties, zoned TE; and

West: A commercial building with a second floor apartment, zoned TE.

Adopted Land Use Plan: The [Comprehensive Plan \(2006\)](#) recommends low density residential (LDR), defined as 0-15 units per acre. The [South Madison Neighborhood Plan \(2005\)](#) more specially recommends the area transition to well-designed townhouses and multifamily buildings that reflect the scale of the nearby residential area.

Zoning Summary: The project site is currently zoned Traditional Employment (TE).

Requirements	Required	Proposed
Lot Area (sq. ft.)	6,000 sq. ft.	16,512 sq. ft.
Lot Width	50'	160.08'
Front Yard Setback	None	Adequate
Side Yard Setback	None unless needed for access	Existing side yard setback
Rear Yard Setback	Lesser of 20% lot depth or 20'	Adequate
Maximum Lot Coverage	85%	Less than 85% (17)
Minimum Building Height	22' measured to building cornice	1 story existing building
Maximum Building Height	5 stories/ 68'	1 story existing building
Number Parking Stalls	Not required	7 (16)
Accessible Stalls	TBD	None
Loading	None	None
Number Bike Parking Stalls	Tavern/tasting room: 5% of capacity of persons (4) Brewery: 1 per 10 employees (1) (5 total)	None (18)
Landscaping and Screening	Yes	None (19)(20)(21)
Lighting	Not required	Existing lighting (24)
Building Forms	Not required	Existing building
Other Critical Zoning Items	Utility Easements; 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, with Metro Transit Route #44 along Gilson Street.

Previous Approvals

The applicant, Funk Factory Geuzeria, received conditional use approval from the Plan Commission on January 12, 2015 to establish a brewery in the Traditional Employment (TE) zoning district. On February 15, 2017, the Director of Planning and Community and Economic Development, per the recommendation from the district Alder, approved a minor alteration to the conditional use to allow for a tasting room on the property to complement the brewery.

Project Description

The applicant, Funk Factory Geuzeria, proposes to create two outdoor seating areas for a tasting room for a brewery at their current location. The Funk Factory has been operating as a brewery since 2015, with the addition of a tasting room in 2017.

The 3,555 square-foot brewery and tasting room is located in an existing one-story warehouse building, which received a façade grant from the City in 2014. The applicant is requesting a conditional use for two outdoor seating areas. The first is referred to as the rear patio and would be located on the south west portion of the site and would include a fire pit, picnic tables, a children’s play area, and outdoor performance platform (stage). The stage would be located on the northern portion of the outdoor area, facing towards the center of the space. The patio would be built on a combination of gravel and pavement. As proposed, the hours of operation for this patio would be between 10:00 am and 12:00 am daily.

The second proposed patio, referred to as the front patio, would be located on the east side of the building along Gilson Street. The applicant is proposing to keep the existing grass for this outdoor area with tables for customers. The applicant is also proposing to install a combination of low ornamental metal or wood fencing, with some planters, to provide a division between the tasting room patrons and the sidewalk. As proposed, the hours of operation for the front patio would be between 10:00 am and 9:00 pm daily. Together, the front and rear patio would have a total capacity of 37 people.

As previously mentioned, the applicant is proposing to build a platform in the corner of the rear patio. The applicant intends to use this space for live music, or “open mic” and poetry. According to the applicant, there would be a maximum number of four (4) outdoor amplified events per year. The applicant has had discussions with the neighborhood association and stated that they would need to request permission from the neighborhood if they would like to exceed that amount. The applicant indicated that all outdoor amplified sound would end at 10:00 pm.

Analysis and Conclusion

This proposal is subject to the standards for Conditional Uses [M.G.O. §28.183] as M.G.O §28.082(1) lists *Outdoor eating areas associated with food and beverage establishments* as conditional uses in the Traditional Employment (TE) District.

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) M.G.O. are met. The Planning Division anticipates that if well-managed, the proposed outdoor eating areas should not result in significant impacts to the surrounding properties.

The [Comprehensive Plan \(2006\)](#) calls for low density residential for subject site, and the [South Madison Neighborhood Plan \(2005\)](#) calls for the transition of this area to townhouse and multi-family development. While this proposal does not further these planning goals, because the property is already an established brewery and tasting room, Staff does not believe that permitting outdoor eating areas would preclude nearby properties from redeveloping in accordance to adopted plans.

Staff believes the conditional use standards can be met as follows:

1. *The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, or general welfare.*

Staff believes that this standard can be found met.

2. *The City is able to provide municipal services to the property where the conditional use is proposed, given due consideration of the cost of providing those services.*

Staff believes that this standard can be found met.

3. *The uses, values and enjoyment of other property in the neighborhood for purposes already established will not be substantially impaired or diminished in any foreseeable manner.*

Due to the size, location, and possibility for outdoor amplified sound, Staff believes certain modifications will be necessary to mitigate potential impacts. Given that the applicant made reference to live music on the outdoor elevated platform, Staff has concerns that this could negatively impact the residential properties to the north of the site. The applicant originally proposed to have eight outdoor amplified events per year, and after meeting with the neighborhood, has lowered that number to a maximum of four outdoor amplified events per year. The applicant has negotiated with neighbors that if they wish to exceed that number they would need to request permission from the neighborhood association prior to scheduling the event. As a condition of approval, Staff will require that the applicant submit these four event dates to the Zoning Administrator no later than May 15th of each calendar year. Dates beyond these four would be considered as an alteration to the conditional use.

The applicant has also indicated that outdoor amplification would not extend past 10:00 pm. As proposed, the rear patio would be open daily from 10:00 am to 12:00 am and the front patio would be open daily from 10:00 am to 9:00 pm. The Bay Creek Neighborhood Association has requested that all non-amplified outdoor music and patio use end at 9:00 pm, except during the four permitted amplified events that would end at 10:00 pm. For non-amplified event nights, Staff also has concerns about having the patio open until midnight due to potential conflicts with nearby residential uses and believes that an earlier closing time should be carefully considered by the Plan Commission. Staff believes that establishing an earlier closing time will limit the negative impacts resulting from the outdoor patios to east and north. Staff further recommends that on non-amplified sound nights, no outdoor amplified sound will be permitted.

As a condition of approval, Staff also recommends that the applicant provide a solid fence between six (6) and eight (8) feet tall around the entire perimeter of the rear patio. For zoning purposes, a screening fence is required where the property abuts residentially zoned properties. Planning Division Staff believes that this should be extended along the entire property boundary to fully screen and enclose this area. The applicant shall use wood or equivalent materials and provide further detail to Staff for final sign-off. Staff believes that this fence would screen the patio from nearby residential properties and reduce some of the potential noise impacts.

Furthermore, as a condition of approval, Staff will require that the applicant submit a more accurate and scaled seating plan showing exactly where tables would be located on the patios. As part of this seating plan, the applicant shall describe what kind of tables they will use and how many seats will be provided. Staff also requests a more detailed description of the children's play area and outdoor performance platform, including any special features and materials. Staff will also request that the applicant clarify the hours of operation for the tasting room and patios.

The neighborhood association has also expressed concern over the proposed fire pit and the smoke affecting nearby residents. Staff believes that the Fire Department's condition of approval regarding the fire pit would reduce the impact on surrounding properties and believes that it can be found to meet this approval standard. The fire pit shall conform to the standards in the City's Fire Code and shall be located a minimum of 15 feet from a structure or combustible material.

Staff believes that this standard can be found met, so long as the conditions of approval from the reviewing agencies are satisfied.

4. *The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.*

Staff believes that this standard can be found met, so long as the conditions of approval from Zoning are satisfied.

5. *Adequate utilities, access roads, drainage, parking supply, internal circulation improvements, including but not limited to vehicular, pedestrian, bicycle, public transit, and other necessary site improvements have been or are being provided.*

Staff believes that this standard can be found met, so long as the conditions of Approval from Traffic Engineering and Zoning are satisfied.

7. *The conditional use conforms to all applicable regulations of the district in which it is located.*

Staff believes that this standard can be found met, so long as the parking and landscaped areas of the site are brought up to contemporary Zoning standards.

[Standards 6, 8-15 do not apply to this request]

Finally, Staff has concerns about the existing grass and gravel as the proposed surfaces for the outdoor patios. The primary concern is from a maintenance and mess standpoint, especially after rain. However, this is more of a concern for patrons and Staff does not believe such a modification would necessarily need to be imposed to meet the conditional use standards, especially for the rear patio. Staff believes that the aforementioned screening fence for the rear patio will limit the visibility in the area. From a building code standpoint, the area would need to meet minimum maintenance requirements, however Planning Staff understands that there is no code standard to require a hard surface for the patio.

Supplemental Regulations

M.G.O. § 28.151 contains further regulations for outdoor eating areas associated with food and beverage establishments. First, primary access to the area shall be from within the establishment. According to the site plan provided, Staff believes that this requirement has been fulfilled. Second, hours of operation may be restricted and noise and lighting limits imposed as part of the conditional use approval. The Planning Division has provided conditions of approval to regulate the outdoor music and patio hours. Lastly, 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 neighborhood. As previously mentioned, Staff recommends that the applicant provide a solid fence between six (6) and eight (8) feet tall around the entire perimeter of the rear patio. Staff believes that this fence will fulfill the Supplemental Regulations for outdoor eating areas.

Conclusion

Staff believes that the outdoor eating area associated with the tasting room for a brewery can be found to meet the Conditional Use Approval Standards and recommends that it be approved by the Plan Commission, subject to several conditions. At the time of report writing, Staff received comments from the Bay Creek Neighborhood Association. Those comments are attached.

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 M.G.O. §28.183(9)(d).

Recommendation

Planning Division Recommendation (Contact Sydney Prusak, (608) 243-0554)

The Planning Division recommends that the Plan Commission find that the approval standards for conditional uses are met and **approve** the request to establish an outdoor eating area for a tasting room for a brewery on a property zoned TE (Traditional Employment District) at 1602 Gilson 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 Sydney Prusak, (608) 243-0554)

1. As part of this approval, the applicant is annually limited to four (4) event dates where outdoor amplified sound may be used and the rear patio may be open until 10:00 pm. Annually, the applicant shall submit the four dates for the outdoor amplified events to the Zoning Administrator no later than May 15th of each calendar year. If the applicant chooses to host more than four amplified events per year, an alteration to this conditional use will be required.
2. There shall be no amplified sound, including, but not limited to television, ambient music or musical performances, in the outdoor eating areas located at the brewery and tasting room addressed 1602 Gilson Street, except during the four permitted amplified events.
3. The hours of operation for the outdoor eating areas located at 1602 Gilson Street shall be Monday through Sunday from 10:00 am – 9:00 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.
4. The applicant shall submit a more accurate and scaled seating plan showing exactly where the tables will be located on each patio. As part of this seating plan, the applicant shall describe what kind of tables they will use and how many seats will be provided. Staff also requests a more detailed description of the children's play area and outdoor performance platform, including any special features and materials.
5. The applicant shall install a solid fence between six (6) and eight (8) feet tall around the entire perimeter of the rear patio. The applicant shall use wood or equivalent materials and provide further details to Staff for final sign-off.

6. The applicant shall provide details on any screening fence proposed for the front patio, for staff approval. This shall not be a six (6) foot solid fence abutting the sidewalk.

7. The applicant shall obtain an entertainment license, if applicable to their liquor license requirements.

8. The applicant shall have the Certified Survey Map (CSM) recorded before final sign-off.

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

9. The applicant shall submit, prior to plan sign-off but after all revisions have been completed, digital PDF files to the Engineering Division. Email PDF file transmissions are preferred to: bstanley@cityofmadison.com (East) or troester@cityofmadison.com (West). The digital copies shall be to scale, and shall have a scale bar on the plan set. (POLICY and MGO 37.09(2)) PDF submittals shall contain the following information:

- a) Building Footprints
- b) Internal Walkway Areas
- c) Internal Site Parking Areas
- d) Other Miscellaneous Impervious Areas (i.e. gravel, crushed stone, bituminous/asphalt, concrete, etc.)
- e) Right-of-Way lines (public and private)
- f) Lot lines or parcel lines if unplatted
- g) Lot numbers or the words unplatted
- h) Lot/Plat dimensions
- i) Street names
- j) Stormwater Management Facilities
- k) Detail drawings associated with Stormwater Management Facilities (including if applicable planting plans).

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

10. The pending Certified Survey Map application for this property shall be completed and recorded with the Dane County Register of Deeds (ROD) prior to issuance of any building permits for new construction. When the recorded CSM image is available from the ROD, the Assessor's Office can then create the new Address-Parcel-Owner (APO) data in GEO so that the Accela system can upload this data and permit issuance made available for this new land record.

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

11. Due to changes in site operation, the applicant shall work with Traffic Engineering to determine if the existing entrances are functioning as intended and close one, if not two access points to Gilson Street.

12. Per MGO 10.08 - all off-street parking facilities shall be improved with bituminous or concrete pavement and designed so as to prevent encroachment onto adjacent land areas: secure all gravel areas with fencing or note as landscaping.

13. Secure patio area. If the applicant intends to have an outdoor seating area, the applicant shall secure the outdoor seating area from the Right of Way with a continuous fence.

14. 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.

15. All parking facility design shall conform to MGO standards, as set in section 10.08(6).

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

16. The areas labeled "Existing Parking" have not been approved for parking. Remove the "Existing Parking" labels from the site plan and discontinue parking in these areas or obtain approval for the parking lots. Per Section 28.141(8) Parking Design and Location, parking for automobiles and other motor vehicles shall be designed according to the requirements of Sec. 10.08, MGO.

17. Provide a calculation and plan detail for lot coverage with the final submittal. The lot coverage maximum is 85%. Lot coverage is defined as the total area of all buildings, measured at grade, all accessory structures including pools, patios, etc., and all paved areas as a percentage of the total area of the lot, with the following exceptions: sidewalks or paved paths no wider than five (5) feet, pervious pavement, green roofs and decks. Note that gravel areas are impervious and contribute to the lot coverage maximum. Provide details of the permeable front patio area.

18. Bicycle parking shall comply with the requirements of Sections 28.141(4)(g) and 28.141(11). Provide a minimum of five (5) short-term bicycle parking stalls located in a convenient and visible area on a paved or impervious surface. Bicycle parking shall be located at least as close as the closest non-accessible automobile parking and within one hundred (100) feet of a principal entrance. Note: A bicycle stall is a minimum of two (2) feet by six (6) feet with a five (5) foot wide access area. Provide a detail of the proposed bike rack.

19. Submit a landscape plan and landscape worksheet stamped by the registered landscape architect. Per Section 28.142(3) Landscape Plan and Design Standards, landscape plans for zoning lots greater than ten thousand (10,000) square feet in size must be prepared by a registered landscape architect.

20. Screening is required adjacent the Zoning district boundary along the west property line. Screening shall be provided along side 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. Submit a detail of the screening fence with the final plans.

21. Identify the refuse disposal area on the site plan. All developments, except single family and two family developments, shall provide a refuse disposal area. If the refuse disposal area is located outside the building, it shall be screened on four (4) sides (including a gate for access) by a solid, commercial-grade wood fence, wall, or equivalent material with a minimum height of six (6) feet and not greater than eight (8) feet. Submit a detail of the trash enclosure if provided outside the building.

22. Provide a detail of the fence enclosing the outdoor eating area located on the east side of the building.

23. The outdoor eating areas shall meet applicable building/fire codes. The capacity shall be established for the outdoor eating areas. Occupancy is established by the Building Inspection Unit. Contact Building Inspection staff at (608) 266-4559 to help facilitate this process.

24. Verify whether exterior lighting will be provided for the outdoor patio areas. If exterior lighting is provided, it must comply with City of Madison General Ordinances Section 10.085 outdoor lighting standards. If exterior site lighting is provided, submit an exterior lighting plan and fixture cut sheets with the final plan submittal.
25. 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.

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

26. The proposed outdoor fire pit shall comply with IFC307.4.3. The fire pit shall be located a minimum 15-ft from of a structure or combustible material and the pit shall have a spark arrestor in place at all times while in use. Contact MFD prior to purchasing materials. Note: This is based on an approved occupant load of 35 classifying the space as a Group B Occupancy. MFD would need to reevaluate the allowance of a fire pit if the Occupancy changed to an Assembly if the occupant load reaches 50 persons.

Parks/Forestry Division (Contact, Kathleen Kane (608) 261-9671)

27. Existing street trees shall be protected. Please include the following note on the site plan: Contractor shall install tree protection fencing in the area between the curb and sidewalk and extend it at least 5 feet from both sides of the tree along the length of the terrace. No excavation is permitted within 5 feet of the outside edge of a tree trunk. If excavation within 5 feet of any tree is necessary, contractor shall contact City Forestry (266-4816) prior to excavation to assess the impact to the tree and root system. Tree pruning shall be coordinated with City Forestry prior to the start of construction. Tree protection specifications can be found in section 107.13 of City of Madison Standard Specifications for Public Works Construction - <http://www.cityofmadison.com/business/pw/documents/StdSpecs/2018/Part1.pdf>. Any tree removals that are required for construction after the development plan is approved will require at least a 72 hour wait period before a tree removal permit can be issued by Forestry, to notify the Alder of the change in the tree plan.
28. An existing inventory of trees (location, species, & DBH) and any tree removal plans (in PDF format) shall be submitted to the plans and Brad Hofmann – bhofmann@cityofmadison.com or 266-4816. All proposed street tree removals within the right of way shall be reviewed by City Forestry. Approval and permitting of street tree removals shall be obtained from the City Forester and/or the Board of Public Works prior to the approval of the site plan.