

# PLANNING DIVISION STAFF REPORT

February 8, 2021



PREPARED FOR THE PLAN COMMISSION

**Project Address:** 1502 W Broadway  
**Application Type:** Conditional Use  
**Legistar File ID #** [63478](#)  
**Prepared By:** Chris Wells, Planning Division  
Report Includes Comments from other City Agencies, as noted  
**Reviewed By:** Kevin Firchow, AICP, Principal Planner

## Summary

**Applicant:** Emily Kettinger, Development Manager; Dairyland Operations, LLC; P.O. Box 120; Wisconsin Dell, WI 53965  
**Contact:** Erik Valiulis; MRV Architects, Inc.; 5105 Tollview Dr., Suite 197; Rolling Meadows, IL 60008  
**Property Owner:** Shane Kieler; Malazi LLC; 5501 Tonyawatha Trail; Monona, WI 53716

**Requested Actions:** The applicant requests conditional use approval for a vehicle access sales and service window in the Commercial Corridor-Transitional (CC-T) District for a restaurant tenant in a three-story commercial building at 1502 W Broadway.

**Proposal Summary:** The applicant is requesting approval to add a vehicle sales and service window (i.e. a drive-through window) for a Dunkin' Donuts restaurant, which will be located in the 2,100-square-foot, ground-floor tenant space of the existing, three-story, commercial building. The drive-through lane, which would serve the window, already exists.

**Applicable Regulations & Standards:** This proposal is subject to the standards for conditional uses in MGO §28.183 as Table 28D-2 in Section 28.061(1) notes that *a vehicle sales and service window* is a conditional use in the Commercial Corridor-Transitional (CC-T) District. The Supplemental Regulations [MGO §28.151] contain further regulations for this use.

**Review Required By:** Plan Commission (PC)

**Summary Recommendation:** The Planning Division recommends that the Plan Commission find that the conditional use standards are met and **approve** the request at 1502 W Broadway. This recommendation is subject to input at the public hearing and the conditions recommended by the Planning Division and other reviewing agencies.

## Background Information

**Parcel Location:** The 34,230-square-foot (0.78-acre) subject site is located on the south side of Lake Point Drive, just east of the intersection of Lake Point Drive with Waunona Woods Court. It is located within Aldermanic District 14 (Ald. Carter); and the Madison Metropolitan School District.

**Existing Conditions and Land Use:** The subject site is developed with a recently constructed, three-story commercial building. The site is also part of a planned multi-use site with commercial buildings on either side – a two-story, multi-tenant commercial building to the west and one-story Cranberry Creek restaurant to the east. The three sites share cross access as well as two access points from Lake Point Drive. All three are zoned Commercial Corridor-Transitional (CC-T).

**Surrounding Land Use and Zoning:**

North: Across Lake Point Drive are multi-family apartment buildings, zoned SR-V2 (Suburban Residential – Varied 2);  
South: Across W Broadway is the Monona Garden Restaurant, zoned Community Design District (City of Monona);  
East: A one-story restaurant, zoned Commercial Corridor-Transitional (CC-T); and  
West: A two-story, multi-tenant, commercial building, zoned CC-T.

**Adopted Land Use Plans:** The [Comprehensive Plan](#) (2018) identifies the subject site for Neighborhood Mixed-Use (NMU) development. The [Broadway-Simpson-Waunona Neighborhood Plan](#) (1986) recommends medium-high density, multi-unit, residential development for the subject site.

**Zoning Summary:** The site is zoned Commercial Corridor-Transitional (CC-T):

Requirements	Required	Proposed
Front Yard Setback	None	83.5'
Side Yard Setback: Other cases	None unless needed for access	15' east 35.7' west
Rear Yard Setback	The lesser of 20% of lot depth or 20'	71.8'
Maximum Lot Coverage	85%	76.3%
Maximum Building Height	5 stories/ 68'	3 story approved building

Site Design	Required	Proposed
Number Parking Stalls	Restaurant: 15% of capacity of persons (7)	29
Accessible Stalls	Yes	1
Loading	Not required	Approved 10' x 50' loading area
Number Bike Parking Stalls	Restaurant: 5% of capacity of persons (2)	4
Landscaping and Screening	Not required	Approved landscaping
Lighting	Not required	Approved lighting
Building Forms	Not required	Approved building (See Comment #10)

Other Critical Zoning Items:	
Yes:	Barrier Free (ILHR), Utility Easements
No:	Urban Design; Floodplain, Wellhead Protection, Landmarks, Waterfront Development, Adjacent to Park, Historic District, Wetlands

*Tables Prepared by Jenny Kirchgatter, Assistant Zoning Administrator*

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

**Public Utilities and Services:** The subject site is served by a full range of urban services, including weekday service along Lake Point Drive and seven-day Metro Transit service at the intersection of W Broadway and Bridge Street, roughly 0.1 miles to the southeast.

**Project Description**

The applicant requests conditional use approval for a vehicle access sales and service window in the Commercial Corridor-Transitional (CC-T) District for a restaurant tenant in a three-story commercial building.

This proposal will result in the addition of a vehicle sales and service window (i.e. a drive-through) on the east façade of the existing building. It is associated with the Dunkin' Donuts restaurant which will occupy the roughly 2,100-square-foot tenant space located at the southeast corner of the building's ground floor. The roughly 200-

foot long, one-car wide drive-through lane, which will serve the window, starts at the southeastern corner of the building, runs along its eastern façade, and ends at the northeast corner of the building. Note: the lane already exists.

Exterior changes will accompany the interior build-out of the tenant space. The existing exterior cladding of the tenant space's two exterior facades will be painted – the wall paneling will be painted grey and the masonry blocks at ground level will be painted dark grey. Large sections of dark mustard-colored fiber cement lap siding will be added on the eastern façade and an orange-colored metal band (referred to as an “accent beam” in the submitted materials) will be added along the top of the both facades. Note: Signage approvals are not granted by the Plan Commission but are part of a separate review process.

Regarding site improvements, they will be minimal. A drive-through order board will be added at the southeast corner of the site (at the beginning of the drive-through lane). Wayfinding signage, to help patrons navigate to the drive-through lane, will also be added at various locations within the site – such as in the parking lot landscaping island located at the northwest corner of the building, and at the southwest corner of the building (on the south side of the drive aisle).

Finally, two automobile parking spaces located just to the north of the building will be converted into designated Dunkin' drive-through waiting spaces. With the intent of moving the queue through the drive-through faster during peak times, customers who place large orders will be directed to one of these stalls to wait. Staff will bring the orders out to the customer when ready.

## Analysis and Conclusion

This proposal is subject to the standards for conditional uses in MGO §28.183 as Table 28D-2 in Section 28.061(1) notes that a *vehicle sales and service window* is a conditional use in the Commercial Corridor-Transitional (CC-T). The Supplemental Regulations [MGO §28.151] contain further regulations for this use.

### Conformance with Adopted Plans

Staff believe that the proposal could be found to be compatible with adopted plans. The 2018 [Comprehensive Plan](#) recommends Neighborhood Mixed-Use (NMU) for the subject site. The Plan states that NMU uses include, among other things, restaurants which *primarily serve nearby residents*. While the Plan notes that “*development and design within NMU areas should be compact and walkable*”, it does not provide specific guidance regarding the addition of auto-oriented uses or elements in existing buildings.

The [Broadway-Simpson-Waunona Neighborhood Plan](#) (1986) recommends medium-high density, multi-unit residential development (RMH-M) for the subject site (as well as sites immediately to the east and west). Staff note that while this residential recommendation matched the site's zoning district classification when the plan was drafted, the site was later rezoned into the C2 (General Commercial) District and then, in 2013, when the Zoning Code was updated, into the Neighborhood Mixed-Use (NMU) District. As such, staff believes the more contemporary Comprehensive Plan recommendation should be the primary adopted plan to be considered.

Therefore, Staff believe that the proposal could be found to be compatible with adopted plans. Staff note that the proposed drive-through window is associated with and accessory to a neighborhood-oriented restaurant, a use which is expressly recommended by the [Comprehensive Plan](#) in buildings in NMU Districts.

## Conditional Use Standards

The conditional use approval standards state that the Plan Commission shall not approve a conditional use without due consideration of the City's adopted plan recommendations, design guidelines, supplemental regulations, and finding that all of the conditional use standards of MGO §28.183(6) are met. Please note, recent changes to state law requires that conditional use findings must be based on "substantial evidence" that directly pertains to each standard and not based on personal preference or speculation.

Staff believe that the Conditional Use standards can be found met. Given the limited scope of the proposal, and the setting between commercial buildings and away from residential units (the nearest is located roughly 300 feet away to the north from the drive-through window location), Staff does not believe the proposal will result in new or negative impacts on the rest of the site or the surrounding properties.

## Supplemental Regulations for Vehicle Access Sales and Service Windows

Vehicle Access Sales and Service Windows are also subject to the Supplemental Regulations of M.G.O. §28.151. The supplemental regulations for this use are the following:

- a) In CC-T, TE, DC, and UMX Districts, vehicle access sales and service windows shall be located to the side of, rear of, or under buildings, and shall not be located between the principal structure and a public street. In the TSS District, vehicle access sales and service windows shall be located under the building in which it is located, and the building shall have commercial or residential uses along the primary street frontage. In all districts, vehicle access sales and services windows shall be at least sixty (60) feet from the closest point of any residentially zoned property or property with a residential building.*
- b) Points of vehicular ingress and egress shall be located at least sixty (60) feet from the intersection of two streets and at least sixty (60) feet from abutting residentially zoned property.*
- c) Plans for onsite circulation and driveway locations shall be reviewed where conditional use approval is required. Site design shall accommodate a logical and safe vehicle and pedestrian circulation pattern. Adequate queuing lane space shall be provided without interfering with onsite parking/circulation.*
- d) Speaker box sounds from the drive-through lane shall not be plainly audible so as to unreasonably disturb the peace and quiet of abutting residential property.*
- e) Drive-through canopies and other structures, where present, shall be constructed from the same materials as the primary building and with a similar level of architectural quality and detailing.*
- f) A six- (6) foot buffer area with screen planting and an obscuring wall or fence shall be required along any property line adjoining an existing residence or residentially zoned property.*
- g) Bicyclist use of sales and service windows shall not be prohibited.*

The Planning Division believes the supplemental regulations listed above are satisfied by the proposal.

## Public Input

At the time of report writing, Staff was not aware of any concerns regarding this request.

## Conclusion

Staff believes that the Conditional Use standards as well as applicable supplemental regulations can be found met. Considering it to be accessory to a neighborhood-oriented restaurant - a use which is expressly recommended by the Comprehensive Plan in buildings in NMU districts - Staff believe the drive-through window could be considered compatible with adopted plans. Finally, given the limited scope of the proposal, and the setting between commercial buildings and away from residential units (the nearest is located roughly 300 feet away to the north from the drive-through window location), Staff does not believe the proposal will result in new or negative impacts on the rest of the site or the surrounding properties.

## Recommendation

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

The Planning Division recommends that the Plan Commission find that the conditional use standards are met and **approve** the request at 1502 W Broadway. This recommendation is subject to input at the public hearing and the conditions recommended by the Planning Division and other reviewing agencies.

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

### City Engineering Division (Contact Timothy Troester, 267-1995)

1. Revise the site plan to show all existing public sanitary sewer facilities in the project area as well as the size, invert elevation, and alignment of the proposed service. (POLICY)
2. This site appears to have a land use that will result in their inclusion as a restaurant class sanitary sewer customer. This will charge commercial kitchen facilities a higher sanitary sewer fee per gallon than domestic users and is based on strengths of waste measured at representative similar customers throughout the City. If the applicant desires, a sampling structure may be installed, as part of the initial construction at their cost, to allow site-specific sampling of their waste to determine sanitary sewer charges specifically for this site. If no sampling structure is installed, this site will default to the restaurant class code in MGO Chapter 35. If you have questions on the restaurant class sewer charges please contact Megan Eberhardt at [Meberhardt@cityofmadison.com](mailto:Meberhardt@cityofmadison.com) or 608-266-6432.

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

3. Show, denote and label on the site plans the Cross Access Easement per Doc No 4485929.
4. Label the Public Sanitary Sewer Easement per 4235707 and the Consent to Occupy Agreement per Document No. 5652993 on the site plans.
5. The site plan shall have a note added that this Site is subject to a Stormwater Cross Drainage Easement per Document No. 5629130.

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

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 to engineering scale and include the following, when applicable: existing and proposed property lines; parcel addresses; all easements; vision triangles; 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. All parking facility design shall conform to MGO standards, as set in section 10.08(6).
8. All vehicle service window access aisles shall have a minimum outside turning radius of thirty (30) feet.
9. The applicant shall work with Traffic Engineering on providing a more direct ADA access to/from the building.

**Zoning Administrator** (Contact Jenny Kirchgatter, 266-4429)

10. The proposed building elevations must be consistent with the approved plans dated August 24, 2020. Building materials identified as EIFS on the submitted plans are not approved building materials. Per approved plans dated August 24, 2020, cement stone panels and Hardi Panels were approved at the base of the building in areas identified as EIFS. EIFS or synthetic stucco may only be allowed as a trim or accent material or at top of building. EIFS shall not be located within three feet of the ground or used in heavily trafficked pedestrian areas or where high pedestrian traffic is anticipated.
11. The final plans shall be consistent with the approved Site Plan Review plan set dated August 24, 2020.
12. 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.
13. 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. Note that the signable areas for the proposed wall signs shall be located as reasonably close to the tenant space as possible.

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

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

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

14. A Water Service Application Form and fees must be submitted before connecting to the existing water system. Provide at least two working days notice between the application submittal and the requested installation or inspection appointment. Application materials are available on the Water Utility's Plumbers & Contractors website (<http://www.cityofmadison.com/water/plumbers-contractors>), otherwise they may be obtained from the Water Utility Main Office at 119 E Olin Ave. A licensed plumber signature is required on all water service applications. For new or replacement services, the property owner or authorized agent is also required to sign the application. A Water Meter Application Form will subsequently be required to size & obtain a water meter establish a Water Utility customer account and/or establish a Water Utility fire service account. If you have questions regarding water service applications, please contact Madison Water Utility at (608) 266-4646.

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

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

**Forestry Division** (Contact Wayne Buckley, (608) 266-4892)

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

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

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