

# PLANNING DIVISION STAFF REPORT

August 9, 2021

PREPARED FOR THE PLAN COMMISSION



**Project Address:** 517-521 Cottage Grove Road (District 15 - Ald. Foster)  
**Application Type:** Conditional Use  
**Legistar File ID #** [66111](#)  
**Prepared By:** Chris Wells, Planning Division  
Report Includes Comments from other City Agencies, as noted  
**Reviewed By:** Kevin Firchow, AICP, Principal Planner

## Summary

**Applicant/Owner:** Ryan Ramig; Dive LLC dba Dive Inn; 521 Cottage Grove Road; Madison, WI 53714

**Requested Action:** Consideration of a conditional use in the Commercial Corridor-Transitional (CC-T) District to allow free-standing vending in the parking lot of a tavern at 517-521 Cottage Grove Road.

**Proposal Summary:** The applicant proposes to have a free-standing vending (food carts) in the tavern's (Drive Inn) parking lot located at 517-521 Cottage Grove Road. It is anticipated that there will only be one food cart on site at a time.

**Applicable Regulations & Standards:** This proposal is subject to the standards for Conditional Uses [MGO §28.183] as MGO §28.061(1) lists *free standing vending* as conditional uses 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.

**Summary Recommendation:** The Planning Division recommends that the Plan Commission find that the approval standards for Conditional Uses are met and **approve** the request for free-standing vending within 200 feet of a residential use on a property zoned CC-T (Commercial Corridor Transitional District) at 517-521 Cottage Grove Road. This request is subject to the input at the public hearing and the conditions recommended by the reviewing agencies.

## Background Information

**Parcel Location:** The subject site is located on the south side of Cottage Grove Road between Mayer Road and Dempsey Road. The site is within Alder District 15 (Ald. Foster) and the Madison Metropolitan School District.

**Existing Conditions and Land Use:** The 7,740-square-foot (0.18-acre) subject parcel is zoned CC-T and developed with a two-story building. A tavern is located on the ground floor above which is a two-bedroom apartment. The majority of the rest of the site is paved. The adjacent site to the west (517 Cottage Grove Road) is owned by the same entity which owns the tavern and contains parking which serves the tavern.

### Surrounding Land Use and Zoning:

**North:** Across Cottage Grove Road is a four-story mixed-use condominium building with ground floor commercial (including the Pinney Brach of the City of Madison Library) and residential units on the upper floors. It is zoned Traditional Employment (TE);

**East:** A one-story, commercial building, zoned Commercial Corridor – Transitional (CC-T);

**South:** Single-family residences in the Suburban Residential – Consistent 1 (SR-C1) District; and

**West:** A restaurant, zoned CC-T.

**Adopted Land Use Plan:** The [Comprehensive Plan \(2018\)](#) recommends Neighborhood Mixed-Use (NMU) for this property. The [Royster-Clarke Special Area Plan \(2009\)](#) recommends that the stretch along the south side of Cottage Grove Road which includes the subject site be redeveloped *“with a variety of commercial activities, including office employment and retail/service uses, as well as with mixed-use developments combining residential uses with employment or retail uses. Stand-alone residential buildings may also be appropriate in mixed-use areas at some locations.”*

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

Requirements	Required	Proposed
Front Yard Setback	0’ or 5’	Adequate
Side Yard Setback: Other cases	None unless needed for access	Adequate
Rear Yard Setback	The lesser of 20% of lot depth or 20’	Adequate
Maximum Lot Coverage	85%	Existing lot coverage
Maximum Building Height	5 stories/ 78’	Existing 1-story building

Site Design	Required	Proposed
Number Parking Stalls	Tavern: 15% of capacity of person (7)	21 existing stalls
Accessible Stalls	Yes	Existing accessible stall
Loading	Not required	None
Number Bike Parking Stalls	Tavern: 5% of capacity of persons (2)	2
Landscaping and Screening	Not required	Existing landscaping
Lighting	Not required	Existing lighting
Building Forms	Not required	Existing building

<b>Other Critical Zoning Items</b>	Barrier Free (ILHR 69); Utility Easements
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*Tables 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.

## Project Description

The applicant, who owns the property and is the proprietor of the tavern located on the property, Dive Inn, is applying for a conditional use for free-standing vending located within 200 feet of a residential property. The applicant intends to host a local food cart on the subject site throughout the year. The cart will be positioned in the parking lot, to the east of the building’s northeast corner (The applicant has indicated this location on the submitted site plan for review.) While it is anticipated that there will only be one food cart on site at a time, the specific vendor will likely vary from day to day or week to week. According to the submitted materials, the hours of operation are proposed to be 11 a.m. to 8 p.m. As proposed, none of the potential vendors will have any affiliation with the tavern, in terms of food production and sales. Each will be required to obtain appropriate City vending licenses and follow all applicable vending rules. Vendors are also expected to be self-sufficient and provide their own generating power. Furthermore, no change in capacity for the tavern is requested at this time.

## Project Analysis and Conclusion

This proposal is subject to the standards for Conditional Uses (M.G.O. §28.183) as M.G.O §28.061(1) and M.G.O. §28.151 lists *free standing vending* as a conditional use in the Commercial Corridor – Transitional (CC-T) District. 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 M.G.O. §28.183(6) are met.

### Conformance with Adopted Plans

The [Comprehensive Plan](#) (2018) recommends Neighborhood Mixed Use (NMU) for this property. The NMU category includes relatively small activity centers that include residential, retail, restaurant, service, institutional, and civic uses. This use further diversifies the mix of commercial uses in the Comprehensive Plan’s NMU-designated area. The [Royster-Clarke Special Area Plan](#) (2009) recommends that the stretch along the south side of Cottage Grove Road, which includes the subject site, be redeveloped “*with a variety of commercial activities, including office employment and retail/service uses, as well as with mixed-use developments combining residential uses with employment or retail uses. Stand-alone residential buildings may also be appropriate in mixed-use areas at some locations.*” The Planning Division believes that the addition of free-standing vending on the subject site is compatible with the adopted plan recommendations. Staff do not believe it will prevent either the subject site or its neighbors from eventually developing in a manner more consistent with the plan recommendations.

### Conditional Use Standards

The Planning Division believes that this proposal can be found to meet the Conditional Standards of Approval. Regarding the proximity to the residential units, staff first note that the applicant has confirmed that the two-bedroom apartment located on the second floor is being converted into an office. Staff also note that the single-family residences are located over 175 feet south of the planned location of the food cart while the condominium units, located roughly 150 feet north, across Cottage Grove Road. Staff anticipates that this separation will help mitigate possible negative impacts related to smells and noise. Lastly, staff believe the proposed hours of operation as well as the plan to have just one food cart on site at a time, will further help mitigate negative impacts. 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 MGO §28.183(9)(d).

### Supplemental Regulations

M.G.O. 28.151 contains further regulations for free standing vending, specifically the requirement that in non-residential districts, free-standing vending is a conditional use if located 200 feet or less from a property line of a lot with residential use, such as those immediately south of the subject parcel. The supplemental regulations also include regulations regarding hours of operation, site plan approval, and the necessary vending and food and/or beverage licensing. As noted above, none of the potential vendors have any affiliation with the tavern, in terms of food production and sales. Each will be required to obtain appropriate City vending licenses and follow all applicable vending rules. Vendors are also expected to be self-sufficient and provide their own generating power.

The Planning Division believes the supplemental regulations listed above is satisfied by the proposal and the conditions of approval.

## Public Input

At the time of report writing, staff did not receive any public comment on this proposal.

## Conclusion

Staff believe this proposal is compatible with adopted plan recommendations and satisfies the conditional use approval standards and supplemental regulations. Given the distance from the nearest residential units (at least 150 feet), the proposed hours of operation, and limit of the number of food carts on site at a time to one, staff do not anticipate negative impacts.

## Recommendation

### Planning Division Recommendation (Contact Chris Wells, [cwells@cityofmadison.com](mailto:cwells@cityofmadison.com))

The Planning Division recommends that the Plan Commission find that the approval standards for Conditional Uses are met and **approve** the request for free-standing vending within 200 feet of a residential use on a property zoned CC-T (Commercial Corridor Transitional District) at 517-521 Cottage Grove Road. This request is subject to the input at the public hearing and the following conditions:

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

### Planning Division (Contact Chris Wells, [cwells@cityofmadison.com](mailto:cwells@cityofmadison.com))

1. That the number of food carts allowed on the site at a time be limited to one (1). In the future, the Director of the Planning Division may consider a minor alteration to the conditional use to further modify the number of food carts allowed on the site at time following a recommendation by the district alder.
2. That the hours of operation for the food cart(s) on site shall be 10:00 am to 9:00 pm daily, including set up and take down. No part of the operator's free-standing vending equipment or operation may remain on the property outside the hours of operation. In the future, the Director of the Planning Division may consider a minor alteration to the conditional use to further modify the hours of operation for the food cart(s) following a recommendation by the district alder.

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

3. The free-standing vending operation shall follow Supplemental Regulations Section 28.151 for Free-Standing Vending.

*The Planning Division, Engineering, Engineering-Mapping, Traffic Engineering Division, Fire Department, Parks Division, Forestry Section, Water Utility, and Metro Transit have reviewed this request and have recommended no conditions of approval.*