



Project Address: 1649 Thierer Road (17th Aldermanic District – Ald. Baldeh)
Application Type: Conditional Use
Legistar File ID # [60687](#)
Prepared By: Colin Punt, Planning Division
Report includes comments from other City agencies, as noted.
Reviewed By: Kevin Firchow, AICP, Principal Planner

Summary

Applicant: John Bieno; TJK Design Build; 612 W Main St #201; Madison, WI 53703

Owner: John Brigham; 2701 International Lane #100; Madison, WI 53704

Requested Action: Approval of a conditional use to construct a commercial building in a planned multi-use site in a CC (Commercial Center District) zoning district.

Proposal Summary: The applicant is seeking approval to build a single-story multi-tenant commercial building at 1649 Thierer Road within the parking lot of an existing retail strip center.

Applicable Regulations & Standards: Section 28.183 M.G.O. provides the process and standards for the approval of conditional uses. The proposal is subject to the requirements regarding Planned Multi-Use Sites found in Section 28.137(2) M.G.O.

Review Required By: Urban Design Commission and Plan Commission.

Summary Recommendations: The Planning Division recommends that the Plan Commission find the standards met and **approve** a conditional use to construct a commercial building in a planned multi-use site at 1649 Thierer Road subject to input at the public hearing and the conditions from reviewing agencies in this report.

Background Information

Parcel Location: The subject site is 5.47 acres in area, located directly north of the intersection of Lien Road and Thierer Road. It is within Aldermanic District 17 (Ald. Baldeh) and the Madison Municipal School District.

Existing Conditions and Land Use: Three existing commercial buildings currently exist on the site. An 18,000-square foot multi-tenant building and 30,000 square-foot multi-tenant building, both built in 1994, line the west and north sides of the site. An 8,000 square-foot commercial building was built nearer the Thierer Road frontage in 2006. The site is zoned CC (Commercial Center District).

Surrounding Land Uses and Zoning:

North: A car wash, day care, and clinic, all zoned CC (Commercial Center District);

East: A large sports and fitness facility, zoned CC;

South: Across Lien Road, two single-family residences, a small shop building, all zoned CC, and a manufacturing building zoned IG (Industrial – General District); and

West: Across Thierer Road, a small multi-tenant commercial building and a building providing social services, both zoned CC-T (Commercial Corridor-Transitional District).

Adopted Land Use Plan: The [Comprehensive Plan](#) (2018) identifies the subject site as Regional Mixed Use. The [East Towne-Burke Heights Neighborhood Development Plan](#) (2005) recommends commercial uses for this site.

Zoning Summary: The subject property is zoned CC (Commercial Center District):

Requirements	Required	Proposed
Front Yard Setback	85' maximum	18.67'
Side Yard Setback	One-story: 5'	Adequate
Rear Yard Setback	The lesser of 20% of lot depth or 20'	Adequate
Maximum Lot Coverage	85%	59.8% within project disturbance limits (see zoning comment 1)
Maximum Building Height	5 stories/ 68'	1 story

Site Design	Required	Proposed
Number Parking Stalls	No minimum required	14 stalls within project disturbance limits (see zoning comment 2)
Accessible Stalls	Yes	One (see zoning comment 2)
Loading	None	None
Number Bike Parking Stalls	General retail; service business; office: 1 per 2,000 sq. ft. floor area (2 minimum)	4 (see zoning comment 3)
Landscaping and Screening	Yes	Yes (see zoning comments 4 & 5)
Lighting	Yes	Yes
Building Forms	Yes	Free-standing commercial building (6)

Other Critical Zoning Items	UDC (Planned Multi-Use Site), Barrier Free (ILHR 69), Utility Easements
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Table prepared by Jenny Kirchgatter, Assistant Zoning Administrator

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.

Project Description

The applicant is seeking conditional use approval to build a 2,540 square foot commercial building on existing surface parking as part of a planned multi-use site—a three-building multi-tenant shopping center with large surface parking lot.

The proposed single-story building facade includes fenestration on every side, with a main entrance facing north toward the parking lot and the other shopping center buildings. Secondary entrances are located on both the north (parking lot) and south (street-facing) facades. The architectural themes and the material and color palette of the proposed building are similar to those of the three existing buildings on site. The primary facade materials are a light brown split-face block along the lower parts of the building, with a tan EIFS above. Accent and trim materials include a rose-colored textured split-face block, aluminum canopies and storefront door and

window systems, and metal flashing. Roof-mounted mechanicals are placed behind architectural parapets and screening walls.

Construction at the proposed site would necessitate the removal of 29 surface vehicle parking stalls and re-construction of 14 stalls, for a net loss of 15 vehicle stalls for the site as a whole. Several existing trees within the shopping center parking lot landscaping are to remain on this site. Additional landscaping includes a variety of lower shrubs and perennials around the base of the building. A trash enclosure is proposed at the east end of the disturbed area, accessed from the shared parking lot.

Proposed hours of operation are 8 a.m. to 8 p.m. Monday to Friday and 10 a.m. to 6 p.m. on Saturday and Sunday.

If approved, the applicant anticipates construction to begin in September 2020 with completion by March 2021.

Analysis & Conclusion

This request is subject to the standards for conditional uses. This section begins with adopted plan recommendations, includes analysis of the conditional use approval standards, and ends with a review of Urban Design Commission findings.

Adopted Plan Recommendations

Section 28.183(6)(a) MGO in the Conditional Use Approval Standards states that the Plan Commission shall not approve a conditional use without due consideration of the recommendations in the City of Madison Comprehensive Plan and any applicable, neighborhood, neighborhood development, or special area plan, including design guidelines adopted as supplements to these plans. The [Comprehensive Plan](#) (2018) identifies the subject site, as well as much of the area surrounding East Towne Mall north of Lien Road as Regional Mixed Use (RMU). Regional Mixed Use areas can include high-intensity centers supporting a variety of multifamily housing options and commercial activity serving the needs of the whole region. Development within RMU areas is generally expected to be at least two stories tall. While the Comprehensive Plan acknowledges the two largest RMU-mapped areas, East Towne Mall, West Town Mall, and their environs may continue to be regional malls for some time, a more detailed planning process is currently underway for this area that will provide more detailed land use and development recommendations for this site. The [East Towne-Burke Heights Neighborhood Development Plan](#) (2005) recommends commercial uses for this site. This area is more specifically recommended for convenience and general retail and service in the NDP. These uses include such uses as retail, personal services, customer service offices, banks, and entertainment activities. Staff believes the proposal is generally consistent with the recommendations of the NDP. While the proposal is not consistent with the Comprehensive Plan's general recommendation for development of at least two stories in RMU areas, staff notes that the plan acknowledges that the current development forms may continue.

Conditional Use Standards

This proposal requires conditional use consideration as it is within a planned multi-use site containing more than 40,000 square feet of floor area in which 25,000 square feet of floor area is designed or intended for retail use or for hotel or motel use per §28.137(2)(e) M.G.O. 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 §28.183(6) M.G.O. are met.

Staff provides the following comments concerning conditional use standard of approval 4, which requires that "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." While the "[Greater East Towne Area Plan](#)" process is currently underway, it does not include any adopted recommendations at this time. Staff anticipates that that effort will ultimately provide further recommendation on proposed roadways and transportation including recommendations that may directly impact future connectivity around the study area. However, Staff advises the Plan Commission to reference the plans adopted at the time of application submittal when reviewing this request.

Staff believes that the Plan Commission can find that the approval standards, including approval standard 4 are met due to a variety of factors. This includes compliance with Zoning regulations and that similar uses either exist currently on this site, or exist in a variety of forms, numbers, and scales within the surrounding area. Planning Staff does not anticipate the proposal will result in other substantial impacts and therefore believes that the proposal could be found to meet the applicable approval standards.

Urban Design Commission

As a development within a planned multi-use site, this proposal also requires review by the Urban Design Commission (UDC) per §28.137(2)(e) M.G.O. The UDC granted final approval to the proposal at its July 1, 2020 meeting without conditions.

Conclusion

On balance, Staff believes that the applicable approval standards for conditional uses can be found to be met. Staff believes the proposal's similar scale and use within the existing surrounding built environment are appropriate. A time of report writing, staff has received no written comments.

Recommendation

Planning Division Recommendations (Contact Colin Punt 243-0455)

The Planning Division recommends that the Plan Commission find the standards met and **approve** a conditional use to construct a commercial building in a planned multi-use site at 1649 Thierer Road subject to input at the public hearing and the following conditions:

Recommended Conditions of Approval: Major/Non-Standard Conditions are Shaded

Zoning Administrator (Contact Jenny Kirchgatter, 266-4429)

1. Provide a calculation and plan detail for lot coverage for the entire planned multi-use site at 1701 Thierer Road. The lot coverage maximum is 85%. Lot coverage is defined as the total area of all buildings, measured at grade, all accessory structures including 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. If the existing site currently exceeds 85% maximum lot coverage, the proposed site improvements may not further increase lot coverage above the maximum.
2. Submit a parking summary including the overall number of parking stalls and accessible stalls for the entire planned multi-use site at 1701 Thierer Road.

3. Bicycle parking for the proposed commercial building shall comply with the requirements of MGO Sections 28.141(4)(g) and 28.141(11). The bicycle parking requirements for the specific commercial use will be reviewed prior to obtaining zoning approval for the tenant build-out.
4. Submit the 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. Identify the existing trees and landscape plantings to remain within the project area in addition to the proposed landscape plantings.
5. Per Sections 28.142(3)(c) and 28.142(4)(e), planting beds or planted areas must contain at least 75% vegetative cover mulched. Mulch shall consist of shredded bark, chipped wood or stone installed at a minimum depth of two (2) inches. If stone is used, it shall be spread over weed barrier fabric.
6. Provide details showing that the primary street façade meets the door and window opening requirements of Section 28.060(2)(d). For nonresidential uses at ground floor level, windows and doors or other openings shall comprise at least sixty percent (60%) of the length and at least forty percent (40%) of the area of the ground floor of the primary street facade. At least fifty percent (50%) of windows on the primary street facade shall have the lower sill within three (3) feet of grade. Glass on windows and doors shall be clear or slightly tinted, allowing views into and out of the interior. Spandrel glass that mimics the appearance of windows maybe used for up to twenty percent (20%) of the required area of the openings.
7. 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.
8. 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 and Chapter 33 Urban Design District ordinances. Signage permits are issued by the Zoning Section of the Department of Planning and Community and Economic Development.

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

9. Obtain a permit to Excavate in the Right-of-Way for completing the improvements in the public Right-of-Way. The permit application is available on the City Engineering Division website at <http://www.cityofmadison.com/engineering/Permits.cfm>.
10. Madison Metropolitan Sewerage District (MMSD) charges are due and payable prior to Engineering sign-off, unless otherwise collected with a Developer's / Subdivision Contract. Contact Mark Moder (608-261-9250) to obtain the final MMSD billing a minimum of two (2) working days prior to requesting City Engineering signoff. (MGO 16.23(9)(d)(4))
11. A Storm Water Management Report and Storm Water Management Permit is required for this project. See Storm comments for report and permit specific details and requirements.
12. A Storm Water Maintenance Agreement (SWMA) is required for this project. See Storm comments for agreement specific details and requirements.

13. This site appears to disturb less than one (1) acre of land. No submittal to the WDNR, CARPC or Department of Safety and Professional Services (DSPS) is required as the City of Madison Building Inspection Department is an approved agent for DSPS.
14. 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)
15. Revise the plans to show a revision to the existing private internal drainage system on the site. Include the depths and locations of structures and the type of pipe to be used. (POLICY AND MGO 10.29)
16. This project will disturb 20,000 sf or more of land area and require an Erosion Control Plan. Please submit an 11" x 17" copy of an erosion control plan (pdf electronic copy preferred) to Megan Eberhardt (west) at meberhardt@cityofmadison.com, or Daniel Olivares (east) at daolivares@cityofmadison.com, for approval. Demonstrate compliance with Section 37.07 and 37.08 of the Madison General Ordinances regarding permissible soil loss rates. Include Universal Soil Loss Equation (USLE) computations for the construction period with the erosion control plan. Measures shall be implemented in order to maintain a soil loss rate below 5.0 tons per acre per year. The WDNR provided workbook to compute USLE rates can be found online at <https://dnr.wi.gov/topic/stormwater/publications.html>
This project will require a concrete management plan and a construction dewatering plan as part of the erosion control plan to be reviewed and approved by the City Engineer's Office. If contaminated soil or groundwater conditions exist on or adjacent to this project additional WDNR, Public Health, and/or City Engineering approvals may be required prior to the issuance of the required Erosion Control Permit. (POLICY)
This project appears to require fire system testing that can result in significant amounts of water to be discharged to the project grade. The Contractor shall coordinate this testing with the erosion control measures and notify City Engineering 608-266-4751 prior to completing the test to document that appropriate measures have been taken to prevent erosion as a result of this testing.
Complete weekly self-inspection of the erosion control practices and post these inspections to the City of Madison website - as required by Chapter 37 of the Madison General Ordinances.
17. Prior to approval, this project shall comply with Chapter 37 of the Madison General Ordinances regarding stormwater management. Specifically, this development is required to submit a Storm Water Management Permit application, associated permit fee, Stormwater Management Plan, and Storm Water Management Report to City Engineering. The Stormwater Management Permit application can be found on City Engineering's website at <http://www.cityofmadison.com/engineering/Permits.cfm>.
The Storm Water Management Plan & Report shall include compliance with the following:
Report: Submit prior to plan sign-off, a stormwater management report stamped by a P.E. registered in the State of Wisconsin.
Electronic Data Files: Provide electronic copies of any stormwater management modeling or data files including SLAMM, RECARGA, TR-55, HYDROCAD, Sediment loading calculations, or any other electronic modeling or data files. If calculations are done by hand or are not available electronically, the hand copies or printed output shall be scanned to a PDF file and provided to City Engineering. (POLICY and MGO 37.09(2))
TSS Redevelopment with TMDL: Reduce TSS by 80% off of the proposed development when compared with the existing site.
Oil/Grease Control: Treat the first 1/2 inch of runoff over the proposed parking facility and/or drive up window.
Submit a draft Stormwater Management Maintenance Agreement (SWMA) for review and approval that

covers inspection and maintenance requirements for any BMP used to meet stormwater management requirements on this project.

18. Submit, prior to plan sign-off but after all revisions have been completed, a digital CAD file (single file) to the Engineering Division that is to scale and represents final construction with any private storm and sanitary sewer utilities.
19. 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 ttroester@cityofmadison.com (West).

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

20. The plan shows existing public sanitary sewer lying outside of the limits of the current easement per Document No 1605282. The current easement shall be amended with a grant of an additional 10' northwest of the existing easement to encompass the sewer properly. Contact Jeff Quamme of Engineering Mapping (jrquamme@cityofmadison.com, 608-266-4097) to coordinate the required Madison Real Estate project.

21. Identify on the plans the lot numbers and lot lines of the recorded Plat to confirm this new building does not cross an underlying lot line.
22. Provide a full and complete legal description of the site or property being subjected to this application on the site plan.

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

23. 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.
24. The Developer shall post a security deposit prior to the start of development. In the event that modifications need to be made to any City owned and/or maintained traffic signals, street lighting, signing, pavement marking and conduit/handholes, the Developer shall reimburse the City for all associated costs including engineering, labor and materials for both temporary and permanent installations.
25. The City Traffic Engineer may require public signing and marking related to the development; the Developer shall be financially responsible for such signing and marking.
26. All parking facility design shall conform to MGO standards, as set in section 10.08(6).
27. All bicycle parking adjacent pedestrian walkways shall have a 2 foot buffer zone to accommodate

irregularly parked bicycles and/or bicycle trailers.

28. All pedestrian walkways adjacent parking stalls shall be 7 feet wide to accommodate vehicle overhang, signage and impediments to walkway movements. Any request for variance shall be submitted to and reviewed by City Traffic Engineering.
29. The applicant shall provide a clearly defined 5' walkway clear of all obstructions to assist citizens with disabilities, especially those who use a wheel chair or are visually impaired. Obstructions include but are not limited to tree grates, planters, benches, parked vehicle overhang, signage and doors that swing outward into walkway.
30. Developer shall provide a recorded copy of any joint driveway ingress/egress and crossing easements and shall be noted on face of plan.
31. Note: This site presents difficult constructability issues; access to neighboring sites must be maintained at all times, protected walkways will be constructed and maintained as soon as possible and little to no access to the Public Right-of-Way on Lien/Thierer Road will be granted for construction purposes. Provide a detailed construction plan to Traffic Engineering for review by the Traffic Control Specialist (Mike Duhr) prior to final signoff.
32. The driveway slope to the underground parking is not identified in the plan set, Traffic Engineering recommends driveway slope under 10%; if the slope is to exceed 10%, the applicant shall demonstrate inclement weather mitigation techniques to provide safe ingress/egress to be approved by the City Traffic Engineer.

Fire Department (Contact Bill Sullivan, 261-9658)

33. Madison Fire Department recommends the installation of a fire sprinkler system in accordance with NFPA 13.

Water Utility (Contact Jeff Bellshaw, 261-9835)

34. The proposed water service configuration intends to reuse an existing lateral connected off of a privately owned water main, which appears to conflict with current Public Service Commission water service requirements. Per PSC 185.52 (2), water service laterals shall be directly connected to the public water main with the shut-off valve located in the public right-of-way. Applicant shall revise plan to connect to the City water main in Thierer Road or alternatively, provide evidence of ownership of the private water main, which will also require Utility access rights to the service shut-off valve via easement. Contact Jeff Belshaw of Madison Water Utility. (Jbelshaw@madisonwater.org or 608-261-9835) to discuss service configuration alternatives that may exist.

35. A Water Meter Application Form and fees must be submitted before connecting to the existing water lateral. Provide at least two working days notice between the application submittal and the scheduled lateral connection/extension. 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. If you have questions regarding water service applications, please

contact Madison Water Utility at (608) 266-4646.

Forestry Section (Contact Jeffrey Heinecke, 266-4890)

36. On this project, street tree protection zone fencing is required. The fencing shall be erected before the demolition, grading or construction begins. The fence shall include the entire width of terrace and, extend at least 5 feet on both sides of the outside edge of the tree trunk. Do not remove the fencing to allow for deliveries or equipment access through the tree protection zone. Add as a note on the plan set.

Metro Transit (Contact Tim Sobota, 261-4289)

37. Metro Transit operates daily all-day transit service along Lien Road in the Thierer Road intersection, across from this property frontage.

The Parks Division reviewed this request and has recommended no conditions of approval