



PREPARED FOR THE PLAN COMMISSION

Project Address: 2013 N. Sherman Avenue (12th Aldermanic District, Alder Palm)
Application Type: Conditional Use
Legistar File ID #: [51948](#)
Prepared By: Chris Wells, Planning Division
Report Includes Comments from other City Agencies, as noted
Reviewed By: Kevin Firchow, AICP, Principal Planner

Summary

Applicant / Project Contact: James McFadden; McFadden & Company; 380 W. Washington Avenue; Madison, WI 53703
Property Owner: Ben Altschul; 2013 North Sherman Avenue, LLC; P.O. Box 43; Madison, WI 53701

Requested Action: Approval of a conditional use to establish an outdoor seating area to serve a coffee shop located in the Neighborhood Mixed-Use (NMX) Zoning District at 2013 N. Sherman Avenue.

Proposal Summary: The applicant proposes to add an outdoor eating area adjacent to a coffee shop, with capacity for 16-20 people.

Applicable Regulations & Standards: This proposal is subject to the standards for Conditional Uses [MGO §28.183], as Table 28D-2 in §28.061(1) of the Zoning Code lists *Outdoor eating areas associated with food and beverage establishments* as a Conditional Use in the Neighborhood Mixed-Use (NMX) Zoning 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 to establish an outdoor seating area to serve a coffee shop located in the Neighborhood Mixed-Use (NMX) Zoning District at 2013 N. Sherman Avenue. 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 property is located at the southeast corner of N. Sherman Avenue and Winchester Street; Wellhead Protection District #7; Aldermanic District 12 (Ald. Palm); Madison Metropolitan School District.

Existing Conditions and Land Use: The 12,060-square-foot corner lot is developed with a one-story, roughly 1,390-square-foot former auto service station, which was originally constructed in 1960, according to City Assessor records. The rest of the site is almost entirely paved with three curb cuts – two onto N. Sherman Avenue and one onto Winchester Street.

Surrounding Land Use and Zoning:

North: Across Winchester Street is a two-story office building, in the Neighborhood Mixed-Use (NMX) Zoning District, and single-family residences, in the Traditional Residential – Consistent 4 (TR-C4) Zoning District;

South: A two-story, mixed-use building with Busse’s Tavern on the ground floor and a two-bedroom residential unit on the second; beyond which is a single-family residence. Both are in the TR-C4 Zoning District;

East: Single-family and two-unit residences, in the TR-C4 District; and

West: Across N. Sherman Avenue is a 22-unit apartment building, in the NMX Zoning District.

Adopted Land Use Plan: The [Comprehensive Plan \(2006\)](#) recommends Low-Density Residential uses for the subject site whereas the [Northport-Warner Park-Sherman Neighborhood Plan \(2009\)](#) does not provide specific recommendations for the subject site.

Zoning Summary: The property is in the Neighborhood Mixed-Use (NMX) Zoning District.

Requirements	Required	Proposed
Front Yard Setback	None	Adequate
Side Yard Setback: Where buildings abut residentially-zoned lots at side lot line.	Minimum side yard required in the adjacent residential district: 5'	Existing side yard
Rear Yard Setback	20'	Existing rear yard
Maximum Lot Coverage	75%	74.7%
Maximum Building Height	3 stories/ 40'	1 story existing building

Site Design	Required	Proposed
Number Parking Stalls	Coffee shop: No minimum required Maximum 40% of capacity of persons (19)	15
Accessible Stalls	Yes	1 <i>(See Comment #23)</i>
Loading	Not required	None
Number Bike Parking Stalls	Coffee Shop: 5% of capacity of persons (2)	4
Landscaping and Screening	Yes	Yes <i>(See Comments #22, #24, #25, #26, & #27)</i>
Lighting	Yes	None <i>(See Comment #30)</i>
Building Forms	Not required	Existing building <i>(See Comment #28)</i>

Other Critical Zoning Items	Barrier Free (ILHR 69); Utility Easements; Wellhead Protection District #7
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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, including Metro Transit.

Project Description

The applicant, on behalf of his client, proposes to establish coffee shop (a permitted use) in the existing building on the subject site. The former automobile service station will be renovated, although, as the submitted materials note, the building will be upgraded while maintaining the existing aesthetic. Germaine to the Conditional Use request, an outdoor eating area is also proposed along the westerly façade of the building. As part of the redevelopment of the site, the existing three-foot-wide concrete walkway/apron, which runs along the building's westerly façade, will be widened, up to roughly a maximum of 13.5 feet, to accommodate the proposed outdoor eating area. The eating area has a capacity of 16-20 persons with seating consisting of four 4-person tables. (Note: the final details of the seating plan and capacity to be approved by the Building Inspection Unit)

As stated in the submitted materials, the eating area will not have amplified music and for the hours of operation, the applicant is requesting to operate from 7:00 am to 7:00 pm, daily.

As part of this request, site changes are also proposed. The northerly curb cut along N. Sherman Avenue will be vacated and a roughly six-foot-wide landscaping strip will be added along both the N. Sherman and Winchester street frontages. A five-foot-wide walkway will also be added along the majority of the southerly property line before running northward to provide access to the coffee shop's main entrance. A five-foot wide sidewalk will also be added from the northwest corner of the building northward to the Winchester Street sidewalk. Four bike stalls will also be added at this corner of the building. The western roughly two-thirds of the site will remain paved but will be striped to accommodate 15 automobile parking stalls (one of which is accessible). The portion of the site to the east of the proposed sidewalks will be seeded with grass. The existing fencing, which runs along the perimeter of this portion of the site, will remain and a new six-foot-tall portion of fencing will be added along the eastern edge of the proposed walkway, which leads from the building south to the property line. All will be painted white.

Analysis and Conclusion

The application is subject to Conditional Use standards as *Outdoor eating areas associated with food and beverage establishments* require Conditional Use approval in the Neighborhood Mixed-Use (NMX) Zoning District and the Supplemental Regulations [MGO §28.151] contain further regulations for this use.

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 MGO §28.183(6) are met. Based on the provided information, the Planning Division believes the Conditional Use standards can be found met. Given that a coffee shop is both a permitted use NMX Zoning District and would be considered a neighborhood-serving retail use, which the Comprehensive Plan recommends limited amounts of in Low Density Residential Districts, Staff believes this proposal is compatible with the [Comprehensive Plan \(2006\)](#) which recommends Low-Density Residential uses for the subject site. Staff also believes that if well-managed, the proposed outdoor eating area should not result in significant negative impacts to the surrounding properties. Factors such as the limited scale and capacity of the proposed outdoor eating area; its placement to the west of the building and orientation towards the street; the proposed hours of operation; the lack of amplified sound; and the proposed conditions of approval will help mitigate possible impacts. Staff however, are mindful of the fact that there are residential units on

the adjacent sites. To that end, Staff point out that 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).

At the time of report writing, staff was not aware of any neighborhood concerns related to this request.

Supplemental Regulations for Outdoor Eating Areas Associated With Food and Beverage Establishments

Outdoor Eating Areas Associated with Food and Beverage Establishments are also subject to the Supplemental Regulations pursuant to Section 28.151. These include the following:

- a) Primary access to the area shall be from within the establishment.
- b) Hours of operation may be restricted and noise and lighting limits imposed as part of the conditional use approval.
- c) 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 character of the neighborhood.

The Planning Division believes the Supplemental Regulations are met, with the recommended conditions.

Recommendation

Planning Division Recommendation (Contact Chris Wells, (608) 261-9135)

The Planning Division recommends that the Plan Commission find that the conditional use standards are met and **approve** the request to establish an outdoor seating area to serve a coffee shop located in the Neighborhood Mixed-Use (NMU) Zoning District at 2013 N. Sherman Avenue. 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

Planning Division (Contact Chris Wells, (608) 261-9135)

1. The hours of operation for the outdoor eating area shall be daily from 7:00 am – 7:00 pm, daily. 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.
2. The capacity of the outdoor eating area located in front of the tenant space addressed as 2013 N. Sherman Avenue shall not exceed twenty (20) persons (note: the final details of the seating plan and capacity to be approved by the Building Inspection Unit). Future modifications to the capacity of the outdoor eating area may be considered as a minor alteration of the conditional use.
3. There shall be no amplified sound, including, but not limited to television, ambient music or musical performances, in the outdoor eating area.

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

4. The plan set shall be revised to show more information on proposed drainage for the site. This shall be accomplished by using spot elevations and drainage arrows or through the use of proposed contours. It is necessary to show the location of drainage leaving the site to the public right-of-way. It may be necessary to provide information off the site to fully meet this requirement. (POLICY)
5. 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).
6. The Applicant shall submit prior to plan sign-off, electronic copies of any Stormwater Management Files including:
 - a) SLAMM DAT files
 - b) RECARGA files
 - c) TR-55/HYDROCAD/Etc
 - d) Sediment loading calculations. 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 (POLICY and Section 37.09(2), MGO).
7. 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. Include copies of all stormwater, utility, and detail plan sheets that contain stormwater practices on 8.5x14 size paper in the draft document. These drawings do not need to be to scale as they are for informational purposes only. Once City Engineering staff have reviewed the draft document and approved it with any required revisions submit a signed and notarized original copy to City Engineering. Include a check for \$30.00 made out to Dane County Register of Deeds for the recording fee. City Engineering will forward the document and fee for recording at the time of issuance of the stormwater management permit. Draft document can be emailed to Tim Troester (west) at troester@cityofmadison.com, or Jeff Benedict at jbenedict@cityofmadison.com final document and fee should be submitted to City Engineering.

8. For Commercial sites < 1 acre in disturbance the City of Madison is an approved agent of the Department of Commerce and WDNR. As this project is on a site with disturbance area less than one (1) acres, and contains a commercial building, the City of Madison is authorized to review infiltration, stormwater management, and erosion control on behalf of the Department of Commerce. No separate submittal to Commerce or the WDNR is required. (NOTIFICATION)
9. Prior to approval, this project shall comply with Chapter 37 of the Madison General Ordinances regarding stormwater management. Specifically, this development is required to Reduce TSS by 80% off of the proposed development when compared with the existing site.
10. This property was closed with residual petroleum contamination (WDNR BRRTS #03-13-116737). If contaminated soil is encountered as part of this redevelopment, all WDNR and DSPS regulations must be followed for proper handling and disposal.
11. The Applicant shall close all abandoned driveways by replacing the curb in front of the driveways and restoring the terrace with grass. (POLICY)
12. The Applicant's project requires the minor restoration of the street and sidewalk. The Applicant shall obtain a Street Excavation Permit for the street restoration work, which is available from the City Engineering Division. The applicant shall pay all fees associated with the permit including inspection fees. (MGO 16.23(9)(d)(6) This permit application is available on line at <http://www.cityofmadison.com/engineering/permits.cfm>.

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

13. The site plan shall identify lot and block numbers of recorded or Plat. Also provide dimensions of the parcels.
14. Applicant shall provide a recorded copy of the agreement for the common use of the proposed trash enclosure on 2005 N. Sherman Avenue.
15. Update to the full street name of N Sherman Ave on all drawings.

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

16. The applicant shall adhere to all vision triangle requirements as set in MGO 27.05 (No visual obstructions between the heights of 30 inches and 10 feet at a distance of 25 feet behind the property line at streets and 10 feet at driveways.). If applicant believes public safety can be maintained they shall apply for a waiver of MGO 27.05(2)(bb) - Vision Clearance Triangles at Intersections Corners. Approval or denial of the waiver shall be the determination of the City Traffic Engineer.
17. If the applicant is intending to rebuild the Winchester Street ingress/egress apron, the applicant shall build the ingress/egress apron to City of Madison standards with flairs and a 20' minimum entrance.

18. 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.
19. 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.
20. All parking facility design shall conform to MGO standards, as set in section 10.08(6).
21. Note: The applicant shall call out locations where curb is proposed; a location of particular importance is adjacent the outdoor eating area.

Zoning (Contact Jenny Kirchgatter, (608) 266-4429)

22. Screening is required adjacent the Zoning district boundary along the east and south property lines. 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. For conditional uses, the Plan Commission may modify these requirements. The applicant has not proposed a screening fence adjacent the south property line. The Plan Commission may consider modifying the requirement for screening adjacent the south property line.
23. Parking requirements for persons with disabilities must comply with Section 28.141(4)(e). Final plans shall show the required van accessible stall and access aisle. A van accessible stall is a minimum of 8 feet wide with an 8 foot wide striped access aisle or a minimum of 11 feet wide with a 5 foot wide access aisle. Show the required signage at the head of the stalls.
 24. 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.
 25. Submit a photo or detail of the 6 foot wood screening fence adjacent the east property line and the 4 foot wood fence adjacent the north property line.
 26. The applicant proposes to share a trash enclosure with the adjacent property at 2005 N Sherman Ave. Submit a written agreement for the shared use of the trash enclosure. Submit a detail of the trash enclosure. The trash enclosure 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.

27. Verify whether new ground level or rooftop mechanical equipment is proposed. All rooftop and ground level mechanical equipment and utilities shall be fully screened from view from any street or residential district, as viewed from six (6) feet above ground level.
28. Submit photos or elevations of the existing building and note any exterior building updates or changes.
29. The capacity shall be established for the outdoor eating area. Occupancy is established by the Building Inspection Unit. Contact Building Inspection staff at (608) 266-4559 to help facilitate this process.
30. Exterior lighting provided shall be in accordance with City of Madison General Ordinances Section 10.085. Provide an exterior lighting plan and fixture cut sheets with the final plan submittal.
31. 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.
32. 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.

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

33. Confirm the need to close, remove, or otherwise deal with any existing underground storage tanks. MFD believes there is a 500-gallon waste oil tank on site.

Parks/Forestry Review (Contact Kate Kane, (608) 261-9671)

34. 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.
35. 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.

36. Additional street trees are needed for this project. All street tree planting locations and trees species within the right of way shall be determined by City Forestry. Please submit a site plan (in PDF format) to Brad Hofmann – bhofmann@cityofmadison.com or 266-4816. Tree planting specifications can be found in Section 209 of City of Madison Standard Specifications for Public Works Construction.
37. Contractor shall contact City Forestry Brad Hofmann bhofmann@cityofmadison.com or 266-4816 at least one week prior to planting to schedule inspecting the nursery stock and review planting specifications with the landscaper.

Water Utility (Contact Adam Wiederhoeft, (608) 266-9121)

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

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

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