

PLANNING DIVISION STAFF REPORT

June 29, 2020



PREPARED FOR THE PLAN COMMISSION

Project Address: 614 N Fair Oaks Ave (District 15 – Ald. Foster)
Application Type: Conditional Use
Legistar File ID # [60478](#)
Prepared By: Sydney Prusak, AICP, Planning Division
Report Includes Comments from other City Agencies, as noted
Reviewed By: Kevin Firchow, AICP, Planning Division

Summary

Applicant, Contact, & Property Owner: Matthew Stebbins; Mary Rose Madison INC; 614 N Fair Oaks Avenue; Madison, WI 53714

Requested Action: The applicant requests approval of a conditional use to establish a restaurant-tavern with an outdoor eating area on property zoned Traditional Employment (TE) District at 614 N Fair Oaks Avenue.

Proposal Summary: The applicant proposes to establish a restaurant-tavern and add an outdoor eating area for the existing establishment.

Applicable Regulations & Standards: This proposal is subject to the standards for Conditional Uses [MGO §28.183] as MGO §28.082 lists *restaurant-taverns and outdoor eating areas associated with food and beverage establishments* as conditional uses in the Traditional Employment (TE) Zoning District. The Supplemental Regulations [MGO §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 requests to establish a restaurant-tavern and outdoor eating area on a property zoned Traditional Employment (TE) District at 614 N Fair Oaks Avenue. These requests are subject to the input at the public hearing and the conditions recommended by the reviewing agencies.

Background Information

Parcel Location: The 19,050 square-foot (approximately 0.44-acre) subject site is located at the northwest corner of the N Fair Oaks Avenue and Commercial Avenue intersection. The site is within both Aldermanic District 15 (Ald. Foster) and the Madison Metropolitan School District.

Existing Conditions and Land Use: The subject parcel contains a one-story, 2,046-square-foot commercial building with a vehicle canopy overhang and surface parking lot. City Assessor records state that the building was constructed in 1969.

Surrounding Land Use and Zoning:

North: Single-family residences, zoned Traditional Residential – Consistent 1 (TR-C1);

East: Single-family residences, zoned Traditional Residential – Consistent 2 (TR-C2), and the off ramp from the Highway 30 overpass;

South: Commercial Avenue with Highway 30 beyond; and

West: A warehouse building and surface parking lot, zoned Traditional Employment (TE);

Adopted Land Use Plan: The [Comprehensive Plan \(2018\)](#) recommends Community Mixed-Use (CMU) for the subject property. The [Carpenter-Hawthorne-Ridgeway-Sycamore-Truax Neighborhood Plan \(2001\)](#) does not provide specific recommendations for the subject site.

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

Requirements	Required	Proposed
Lot Area (sq. ft.)	6,000	19,050
Lot Width	50 ft.	150 ft.
Front Yard Setback	None	Existing
Side Yard Setback	6 ft.	Existing
Rear Yard Setback	20 ft.	Existing
Maximum Lot Coverage	85%	Existing
Minimum Building Height	22 ft.	Existing
Maximum Building Height	5 stories/68 ft.	Existing

Requirements	Required	Proposed
Number Parking Stalls	No minimum, 40% capacity maximum	22
Accessible Stalls	1	1 (10)
Loading	No	No
Number Bike Parking Stalls	5% of capacity	0 (11)
Landscaping	Yes	Existing
Lighting	No	Existing
Building Forms	Yes	Existing
Other Critical Zoning Items	Utility Easements	

Table Prepared by Jacob Moskowitz, 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, Analysis, and Conclusion

The applicant, Matthew Stebbins on behalf of Brothers Three, proposes to establish a restaurant-tavern with an outdoor eating area. The restaurant-tavern is an existing non-conforming use and needs formal conditional use approval to be deemed a conforming use in the Traditional Employment (TE) Zoning District. The applicant is also requesting conditional use approval for a new outdoor eating area. The approximate 500-square-foot patio will be located in front of the building (N Fair Oaks Avenue frontage) with immediate access from the restaurant-tavern. The applicant is proposing to add overhead garage style doors to provide a connection between the indoor and outdoor spaces. The patio will have nine tables, with seating for approximately 40 people. As proposed, the restaurant will be open from 7:00 a.m. to 10:00 p.m. Sunday through Wednesday and 7:00 a.m. to 11:00 p.m. Thursday through Saturday. The outdoor eating area will be open from 9:00 a.m. to 9:00 p.m. daily. According to the applicant, there will be two small speakers outside to provide background patio music.

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.

Staff believes that the proposed uses are generally compatible with the [Comprehensive Plan \(2018\)](#) recommendations for Community Mixed Use (CMU) for the subject site. While CMU calls for a mix of residential and commercial uses between two and six stories, and up to 130 dwelling units per acre (du/ac), staff is supportive of the continuing commercial use of the existing building. Further, the Planning Division does not believe that establishing a restaurant-tavern with an outdoor eating area will preclude the development of this property, or adjacent parcels, in the future.

In regards to the Conditional Use Standards, Conditional Use Standard #3 states, "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." Staff notes the residential pattern of development to the north and east of the site, but also acknowledges the commercial and highway pattern of development to the south and west, namely Highway 30 directly south of Commercial Avenue. Given the proximity to residential uses, the Planning Division has included a typically-recommended condition of approval limiting the hours of operation for the patio to those proposed by the applicant (9:00 a.m. to 9:00 p.m. daily). Staff also notes that the applicant intends to provide two outdoor speakers for amplified sound on the patio. Again, given the proximity to residential uses immediately to the north and east, the Planning Division recommends a condition of approval restricting outdoor amplified sound. Staff also recommends a condition of approval requiring that the east facing overhead doors be shut when the outdoor eating area is closed to minimize potential impacts from inside after patio hours. If approved, the Plan Commission retains continuing jurisdiction over the conditional uses, meaning if complaints be filed, the Plan Commission may take further action on the conditional use as allowed in MGO §28.183(9)(d). Given these considerations, the Planning Division believes that the Conditional Use Standards can be found met.

Supplemental Regulations

Lastly, according to Table 28F-2 in MGO §28.082, *restaurant-taverns and outdoor eating areas associated with food and beverage establishments* must adhere to the Supplemental Regulations found in MGO §28.151. Staff believes the Supplemental Regulations can be found met. The Supplemental Regulations for outdoor eating areas state that, "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." Given that the patio space will be adjacent to surface parking and N Fair Oaks Avenue, the Planning Division believes that the proposed site improvements, including fencing surrounding the patio, fulfill this supplemental requirement.

Conclusion

Staff believes that the proposed restaurant-tavern and outdoor eating area can be found to meet the Conditional Use Approval Standards and recommends that the requests be approved by the Plan Commission, subject to input at the public hearing and comments from reviewing agencies.

At the time of report writing, staff was not aware of any concerns on these requests.

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 requests to establish a restaurant-tavern and outdoor eating area on a property zoned Traditional Employment (TE) District at 614 N Fair Oaks Avenue. This request is 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. The outdoor eating area shall close at 9:00 p.m. seven days a week as stated in the application materials. No service shall occur in the outdoor area after the closing hour on any given day, and patrons may not utilize the outdoor patio area after those hours for smoking or otherwise. The doors on the eastern wall of the restaurant-tavern shall also be closed at this time. The Director of the Planning Division may consider a minor alteration to the conditional use in the future to further modify the hours of operation for the outdoor eating area following a recommendation by the District Alder.
2. No outdoor amplified sound (from music, televisions, etc.) or live musical performance shall be allowed in the outdoor eating area

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

3. 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.
4. All parking facility design shall conform to MGO standards, as set in section 10.08(6).
5. All bicycle parking adjacent pedestrian walkways shall have a 2 foot buffer zone to accommodate irregularly parked bicycles and/or bicycle trailers.
6. 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.). Alteration necessary to achieve compliance may include but are not limited to; substitution to transparent materials, removing sections of the structure and modifying or removing landscaping elements. If applicant believes public safety can be maintained they shall apply for a reduction of MGO 27.05(2)(bb) - Vision Clearance Triangles at Intersections Corners. Approval or denial of the reduction shall be the determination of the City Traffic Engineer.
7. 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.

8. "Stop" signs shall be installed at a height of seven (7) feet from the bottom of the sign at all class III driveway approaches, including existing driveways, behind the property line and noted on the plan. All directional/regulatory signage and pavement markings on the site shall be shown and noted on the plan.
9. The applicant shall show the dimensions for the proposed class III driveway including the width of the drive entrance, width of the flares, and width of the curb cut.

Zoning (Contact Jacob Moskowitz, (608) 366-4560)

10. Parking requirements for persons with disabilities must comply with Section 28.141(4)(e). Final plans shall show the required accessible stalls including van accessible stalls. A van accessible stall is a minimum of 8 feet wide with an 8 foot wide striped access aisle. Show the required signage at the head of the stalls.
11. Bicycle parking shall comply with the requirements of Sections 28.141(4)(g) and 28.141(11). Provide a minimum of 5% of the capacity of the restaurant and patio in 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.
12. 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.

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

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| <ol style="list-style-type: none">13. To facilitate City transit planning efforts, the applicant shall identify the accessible pedestrian connection between the building entrance and the existing public sidewalk along Fair Oaks Avenue and/or the north Commercial Avenue Service Road.14. In coordination with public works improvements, the applicant shall maintain or replace the existing concrete boarding pad and bench surface at the bus stop on the north side of the north Commercial Avenue Service Road, west of Fair Oaks Avenue (#9740).15. The applicant shall include the location of these facilities on the final documents filed with their permit application, so that Metro Transit may review and effectively plan for City transit access to this property. |
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16. Metro Transit operates daily service along the Commercial Avenue Service Roads with stops in the Fair Oaks intersections. Prior to service reductions put in place during March of 2020, trips operated at least once an hour on a daily basis.