



**Project Address:** 1336 Drake Street (13<sup>th</sup> Aldermanic District – Ald. Evers)  
**Application Type:** Conditional Use  
**Legistar File ID #** [93273](#)  
**Prepared By:** Colin Punt, AICP Planning Division  
Report includes comments from other City agencies, as noted.  
**Reviewed By:** Kevin Firchow, AICP, Principal Planner

## Summary

**Applicant:** Robert Shaprio; Sammy Aziz LLC, DBA Zuzu Café; 217 S Orchard St; Madison, WI 53715

**Requested Action:** Approval of conditional uses for amplified sound at an existing outdoor eating area within the NMX (Traditional Residential) zoning district per §28.061(1) MGO.

**Proposal Summary:** The applicant is seeking to host amplified sound events at an existing outdoor eating area at a restaurant at 1336 Drake Street.

**Applicable Regulations & Standards:** §28.183 MGO provides the process for conditional uses. Supplemental regulations for amplified sound outdoor eating areas are found in §28.151 MGO

**Review Required By:** Plan Commission

**Summary Recommendations:** The Planning Division recommends that if the Plan Commission can find that the standards for conditional uses are met, it should approve the conditional use at 1336 Drake Street for amplified sound at an existing outdoor eating area subject to input at the public hearing and the conditions recommended by the reviewing agencies beginning on page 7. However, in the alternative, should the Plan Commission find that the standards for approval are not met, the Plan Commission should provide its findings of fact and place the request on file without prejudice.

## Background Information

**Parcel Location:** The subject site is a 5,415-square foot parcel located on the northeast quadrant of the intersection of Drake Street and South Randall Avenue. It is within Aldermanic District 13 (Ald. Evers) and the Madison Metropolitan School District.

**Existing Conditions and Land Use:** 1336 Drake Street is currently developed with a single-story commercial building used as a restaurant with an outdoor eating area in the former parking lot in front of the building. The site is zoned NMX (Neighborhood Mixed Use district).

### Surrounding Land Uses and Zoning:

North: A two-family residence zoned TR-C3;

East: A single-family residence zoned NMX;

South: Across Drake Street one- and two-family residences zoned TR-C3; and

**West:** Across South Randall Avenue, a three-family residence zoned TR-V1 and single-family residence zoned TR-C3.

**Adopted Land Use Plan:** The [Comprehensive Plan](#) (2023) recommends Low Residential for the site. The [Greenbush Neighborhood Plan](#) (2008) identifies this intersection as a neighborhood gateway and recommends the continued commercial use of the site. The [Brittingham-Vilas Neighborhood Plan](#) (1989) makes no recommendations for this location.

**Zoning Summary:** The subject property is zoned NMX (Neighborhood Mixed Use District):

Requirements	Required	Proposed
Front Yard Setback	0' or 5'	Existing front yard
Max. Front Yard Setback	25'	Existing front yard
Side Yard Setback: Street side yard	0' or 5'	Adequate
Side Yard Setback: Other cases	0	Existing side yard
Rear Yard Setback	20'	Existing rear yard
Maximum Lot Coverage	75%	Existing lot coverage
Maximum Building Height	3 stories/40'	Existing one-story building
Front Yard Setback	0' or 5'	Existing front yard

Site Design	Required	Proposed
Number Parking Stalls	No minimum required	None
Electric Vehicle Stalls	Not required	None
Accessible Stalls	Not required	None
Loading	Not required	None
Number Bike Parking Stalls	Restaurant: 5% of capacity of persons (6)	Existing bike parking
Landscaping and Screening	Not required	Existing landscaping
Lighting	Not required	Existing lighting
Building Form and Design	Not required	Existing building

<b>Other Critical Zoning Items</b>	Barrier Free (ILHR 69), Utility Easements
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*Table prepared by Jenny Kirchgatter, Assistant Zoning Administrator*

**Environmental Corridor Status:** The site is not within a mapped environmental corridor.

**Public Utilities and Services:** The site is served by a full range of urban services.

## Project Description

The applicant, representing Zuzu Café, proposes to host outdoor amplified music at the restaurant’s existing patio on Thursday evenings from 5:30 p.m. to 8 p.m. and Sunday afternoons from 3 p.m. to 5 p.m. The letter of intent also indicates the applicant’s intent to host music on occasional weekend evenings once or twice per month, always ending by 9 p.m. or earlier.

The site is currently developed with the restaurant building, which occupies the northern half of the site. A patio of approximately 50 feet by 50 feet occupies the southern half of the site adjacent to the street intersection. A previously-approved site plan shows 16 patron tables on the patio. A sandbox is located at the northeastern corner of the patio, which the applicant intends to cover with a temporary stage on which musicians will perform. The application materials indicate sound system setup will be minimal and that speakers would generally be oriented

in a southwesterly direction toward the Henry Vilas Zoo parking lot, which is across South Randall Avenue and Drake Street.

No other changes to the site or building are proposed.

If approved, the applicant intends to begin musical performances immediately upon condition verification and site plan approval.

## Analysis and Conclusion

This request is subject to the standards for conditional uses, as well as supplemental regulations for amplified sound in outdoor eating areas. This section begins with adopted plan recommendations before providing an analysis of the conditional use standards, which includes a discussion of applicable supplemental regulations. It finishes with a review of public comments received and a conclusion.

### Consistency with Adopted Plans

The [Comprehensive Plan](#) (2023) recommends Low Residential for the site. The LR category includes predominantly single- and two-family housing types of up to two stories and 15 dwelling units per acre. A limited amount of nonresidential uses, including small-scale commercial uses, may also be located within residential categories and, due to their relatively small size, are not always identified at the scale of the generalized future land use map. The [Greenbush Neighborhood Plan](#) (2008) identifies this intersection as a neighborhood gateway and recommends the continued commercial use of the site. The [Brittingham-Vilas Neighborhood Plan](#) (1989) makes no specific recommendations for this location.

### Conditional Use Standards

The applicant is requesting conditional use approval for amplified sound on an existing outdoor eating area within the NMX (Neighborhood Mixed Use) zoning district.

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. Note that 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.

Section 28.183(6) of the Madison General Ordinance lists sixteen conditional use approval standards, of which not all are applicable to every conditional use. For this request, Standards 7-16 do not apply, while Standards 1-6 are applicable. Staff believe that the Plan Commission can find Standards 1-2, and 4-6 to be met without further discussion, but provides the following analysis related to standard 3.

Conditional use approval 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.*" Given the close proximity of the outdoor eating area to residential uses, finding this standard met is staff's primary question. The concern regarding standard 3 relates to the proximity of the outdoor eating area to surrounding residential uses and whether allowing outdoor amplified sound can be found to meet the standard. The building occupying the site generally lies between the outdoor eating area and the nearby residences to the north. Further, immediately southwest of the outdoor eating area, across both Drake Street and South Randall Avenue and

occupying that entire quadrant of the intersection, is the Henry Vilas Zoo parking lot with the Zoo itself beyond. The proposed outdoor eating area directly abuts a parcel also zoned NMX, but developed with a single-family residence. The house on that lot sits approximately five feet from the property line and edge of the outdoor eating area. A wood screening fence and a significant amount of vegetative growth separates the adjacent residence from the outdoor eating area. The house is approximately 10-15 feet from the proposed stage. A two-family residence zoned TR-C3 is located directly to the north, but the Zuzu Café building sits between the outdoor eating area and the two-unit building. Other residences that are zoned and planned for residential development are also nearby, including existing one- two- and three-family residences zoned TR-C3 and TR-V1 directly to the north, south, and west of the outdoor eating area. There are 120 dwelling units in 88 buildings within 500 feet of the center point of the outdoor eating area.

Since 2015, there have been over 80 conditional use requests involving outdoor eating areas and/or outdoor amplified sound. There were approximately 14 applications in which outdoor sound was allowed, though a few properties allowed to have outdoor sound only for a limited set of specified events. However, in a majority of those applications the applicant did not request or the Plan Commission approved with conditions prohibiting outdoor amplified sound, which was a common condition for any outdoor eating area prior to a 2022 change to the zoning code. Prior to that change all outdoor eating areas were conditional uses, regardless of hours of operation or presence of amplified sound. In summary, staff note the following applications that have some similarities to the current request:

- Legislative ID [65479](#) - The Plan Commission approved amplified sound in an outdoor eating area for the Villa Tap at 2302 Packers Avenue. In that case, the nearest residence was approximately 95 feet from the outdoor eating area across a small parking lot. The number of residences within 500 feet of the outdoor eating area was almost identical to that of the Drake Street site. Conditions of that approval required outdoor amplified music to cease by 8 p.m. daily and allowed occupancy of the outdoor seating area until 10 p.m. daily.
- Legislative ID [82730](#) - Mint Mark restaurant's outdoor eating area (located at 1874 East Washington Avenue) has seating for 40-60 patrons and is located at the south corner of six-story 290-unit mixed-use building. That approval permitted outdoor eating area operation and amplified music until 12 a.m. While there are dwelling units within the building in the floors immediately above the restaurant, the nearest off-site dwelling units were approximately 170 feet from that outdoor eating area.
- Legislative ID [91510](#) - A request for amplified sound in an outdoor eating area for a Minocqua Brewing Company tasting room at 2927 East Washington Avenue was recently placed on file without prejudice by the Plan Commission. The proposed outdoor eating area for that request directly abutted a property planned and zoned for residential development and was roughly 40 feet from the nearest dwelling unit. Other residences in the neighborhood that are zoned and planned for residential development are also nearby: in this case, there are 185 residential dwelling units in 29 buildings within 500 feet of the outdoor eating area.
- Legislative ID [92235](#) - Friends Applaud, a restaurant located at 1602 Gilson, received an approval in April 2026 for amplified sound within an outdoor eating area. The proposed outdoor eating area for that request directly abutted the nearest dwelling unit, which was on a property zoned for employment uses. There are 35 dwelling units in 26 buildings within 500 feet of the center point of this outdoor eating area. Other residences in the neighborhood that are zoned and planned for residential development are also nearby. The approval allowed for outdoor amplified sound on Saturdays only from April to

November, no later than 8 p.m. The conditional use for amplified sound was granted for one year, with the opportunity to be renewed or amended after a year.

### ***Supplemental Regulations***

Outdoor eating areas associated with food and beverage establishments are subject to Supplemental Regulations found in §28.151 MGO. The supplemental regulations for this conditional use include the following:

- (a) Primary access to the area shall be from within the establishment.
- (b) Hours of operation shall end at 9:00 p.m. in all districts except for MXC, CC and RMX, unless extended as part of the conditional use approval.
- (c) No amplified sound is permitted in all districts except MXC, CC and RMX, unless allowed as part of the conditional use approval.
- (d) 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.

Regarding supplemental regulation (a), while the outdoor eating area for this location is in front of the building and occupies the front yard area adjacent to both sidewalks, this is an existing condition. Regulation (b) is not pertinent to this request, which does not propose to extend the outdoor eating space's hours of operation past 9 p.m. Regulations (c) is addressed as reason for the conditional use. Regarding regulation (d), staff have recommended measures that may be considered by the Plan Commission to address and mitigate sound impacts, and the applicant proposes some sound mitigation efforts. If the Plan Commission can find the standards met, then staff recommends that additional measures be considered as approval conditions:

- ***Hours Limitations.*** Staff recommends limiting any amplified sound in the outdoor eating area should be limited to 5:30 p.m. to 8 p.m. on Thursdays from May through August and 3 p.m. to 5 p.m. on Sundays from May through October. Staff recommends the restriction of two fewer months of amplified sound on Thursday to coincide with the academic school year and to limit impacts on nearby residents during that time. While the letter of intent suggested additional "occasional music" on weekend evenings once or twice per month, staff have not recommended including these in the approval. The limitations recommended in the condition are more consistent with past approvals and offer the Plan Commission, City staff, and nearby residents more predictability in the performance of amplified music.
- ***Limit Approval Period.*** As a recommended condition, this initial Conditional Use approval would be valid only for one year or another specified period of time. After that year, the applicant would need to apply to extend the Conditional Use approval. Staff believe such a condition to be worthy of consideration since, given the proximity to residential uses, the actual noise impacts could vary considerably based on various factors including how the amplified sound is utilized and managed. There is precedent for this type of condition: recently, the Plan Commission approved a similar conditional use for Friends Applaud for one year (Legislative ID [92235](#)). Prior approvals at the Essen House (506-518 E Wilson Street and 134-148 S Blair Street) were limited to one year, but the most recent February 2, 2026 approval was extended for a two year period (Legistar ID [91287](#)). If this request is approved and the applicant returns for re-approval, the Plan Commission could consider another one-year approval, an approval with a longer term, or a standard approval without expiration other than that defined in the Zoning code.

- **Noise Mitigation Measures.** In order to establish a more detailed and clear understanding of operational plans and mitigation efforts, the applicant's proposed mitigation efforts are recommended to be specifically noted in a plan to be reviewed and approved by the Building Inspection and Planning Divisions. A plan showing the location of the stage and direction in which speakers are to be directed (southwest toward the Zoo) has been submitted. However, additional details about stage location and setup, speaker placement and orientation, the location and type of any sound mitigation features, and other similar details could be required.

Finally, staff note that 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).

### Public Comment

Staff have received a substantial volume written public comments regarding this application, which have been attached to the legislative file for this request. As additional written comment is received, it will be attached to the legislative file.

### Conclusion

The applicant is seeking to host amplified sound events at an outdoor eating area at an existing restaurant at 1336 Drake Street. The request is subject to the standards for conditional uses, as well as supplemental regulations for outdoor eating areas. While the Comprehensive Plan recommends Low Residential for the site, the Greenbush Neighborhood Plan recommends the continued commercial use of the site.

While recent approvals for amplified outdoor sound are relatively few, especially in proximity to residential development, each conditional use request must be reviewed on its own merits. As noted above, within the past several months, the Plan Commission both approved (Legislative ID [92235](#)) and denied (Legislative ID [91510](#)) separate requests for outdoor amplified sound. While similar in some ways, this request includes some differences from both of these most recent examples. For instance, the patio area in question abuts a parcel with mixed-use zoning, and while recommended for Low Residential uses, it is currently zoned the more intensive Neighborhood Mixed Use (NMX) district. Further, the outdoor eating area itself is generally open to and oriented toward the Zoo, rather than oriented more closely to any of the surrounding residential uses.

However, due to the proximity of this outdoor eating area to residential uses, staff have concerns related to Conditional Use Standard 3 for this request. Staff believes that there are challenges to mitigating sound impacts. The amplified sound impacts will vary based on factors such as the volume levels, location/setup of stage and speakers, size of performing ensembles, types of amplification, effectiveness of on-site management and mitigation efforts, and frequency of events.

Careful attention should be given to all of the submitted materials and input at the public hearing. Due to the proximity issues, staff cannot definitively conclude Standard 3 is met at this time. As such staff have not recommended outright approval and recommended that the Plan Commission give careful consideration to this request. Further, while staff do not believe the requested use of amplified sound is not approvable as requested, the Plan Commission may be able to find that the applicable standards of approval can be met with additional restrictions, considering the previous approval allowing very limited outdoor sound on this site. Recommended conditions include establishing an approval for a limited amount of time and further limitations that staff believe may help the Plan Commission find standard 3 and any other applicable standards to be met.

Finally, staff again note that 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).

## Recommendation

### Planning Division Recommendations (Contact Colin Punt 243-0455)

The Planning Division recommends that if the Plan Commission can find that the standards for conditional uses are met, it should approve the conditional use at 1336 Drake Street for amplified sound at an existing outdoor eating area subject to input at the public hearing and the conditions recommended by the reviewing agencies below. However, in the alternative, should the Plan Commission find that the standards for approval are not met, the Plan Commission should provide its findings of fact and place the request on file without prejudice.

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

### Planning Division (Contact Colin Punt, 243-0455)

1. The conditional uses for an outdoor eating area with amplified sound associated with a food and beverage business are valid through December 31, 2026. If the applicant wishes to operate outside the standard operating conditions allowed as permitted uses in the Zoning code beyond 2026, this shall require approval by the Plan Commission following the submittal of a new application request and public hearing. No sooner than December 1, 2026, the applicant may request approval of a new conditional use to continue or change the hours of operation for the outdoor eating area and the allowed times and dates for outdoor amplified sound. At that time the Plan Commission may consider another one-year approval, a longer-termed approval, or a standard approval without sunset clause.
2. That between May 1 and October 31, outdoor amplified sound is allowed on Sundays between the hours of 3 p.m. to 5 p.m. Between May 1 and August 31, outdoor amplified sound is also allowed on Thursdays between the hours of 5:30 p.m. to 8 p.m.
3. The applicant shall submit a more accurate and complete scaled seating plan showing exactly where the tables will be located on each patio. As part of this seating plan, the applicant shall include how many seats will be provided. Plan must show the location of the outdoor performance stage, speakers, children's play area, and any other special features. Further, the information should include a noise attenuation and management plan. Such a plan should include further information related to considerations such as stage location and setup, speaker placement and orientation, the location and type of any sound mitigation features, and other similar details. Speakers should generally be mounted on or near the northern wall and orientated to the south or southeast. The plan shall be reviewed and approved by the Zoning Administrator and Directors of the Building Inspection and Planning Division, or their assigns.
4. If amplified sound is played indoors after 8 p.m., no exterior doors may be propped open or otherwise left open. This shall not preclude the installation and opening of operable doors and windows opening into the outdoor eating area. These windows and doors can only be propped open during the hours when the outdoor eating area is open and shall operate in accordance with the approved conditional uses.

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*The Office of the Zoning Administrator, Engineering Division, Traffic Engineering Division, Fire Department, Parks Division, Forestry Section, Water Utility, Metro Transit, City Assessor's Office, City Engineering Division-Mapping Section, and Parking Utility have reviewed this request and have recommended no conditions of approval.*