

# PLANNING DIVISION STAFF REPORT

April 4, 2016



PREPARED FOR THE PLAN COMMISSION

**Project Address:** 2439 Atwood Avenue (6<sup>th</sup> Aldermanic District, Ald. Rummel)  
**Application Type:** Conditional Use  
**Legistar File ID #** [41673](#)  
**Prepared By:** Chris Wells, Planning Division  
Report Includes Comments from other City Agencies, as noted  
**Reviewed By:** Jay Wendt, Principal Planner

## Summary

**Applicant / Contact:** Aric Dieter; Next Door Brewing Company Co.; 310 Fairway Circle; Edgerton, WI 53534

**Property Owner:** Ron Hull; 3 Bells; 5817 Femrite Drive; Madison, WI 53718

**Requested Action:** The applicant requests approval of a conditional use to add an outdoor seating area on a property zoned TSS (Traditional Shopping Street).

**Proposal Summary:** The applicant proposes to add an outdoor seating area to their existing brewpub establishment. The seating area would consist of a fenced-in patio with landscaping as a buffer. No structural or programmatic changes to the existing building are proposed.

**Applicable Regulations & Standards:** Section 28.061 of the Zoning Code lists *Outdoor eating areas associated with food and beverage establishments* as a conditional use in the TSS (Traditional Shopping Street) district. The Supplemental Regulations [Section 28.151] contain further regulations for this type of use. This proposal is subject to the standards for Conditional Uses [Section 28.183].

**Review Required By:** Plan Commission (PC)

**Summary Recommendation:** The Planning Division recommends that the Plan Commission find that the approval standards for Conditional Use are met and **approve** the request to add an outdoor seating area on a property zoned TSS (Traditional Shopping Street) at 2439 Atwood Avenue. This request is subject to the input at the public hearing and the conditions recommended by the reviewing agencies.

## Background Information

**Parcel Location:** The 16,094-square-foot (0.37-acre) project site is located along the south side of Atwood Avenue, just west of the intersection with Hudson Avenue. The site is in Aldermanic District 6 (Ald. Rummel) and is in the Madison Metropolitan School District.

**Existing Conditions and Land Use:** The site includes an existing two-story, 7,560-square-foot building which was remodeled in 2013, and is centrally located along the northern portion of the site fronting Atwood Avenue. The rest of the site is paved with 14 automobile parking stalls which are accessed via the two-way drive aisle that surrounds the building. The 4,800-square foot ground floor is currently home to the brewpub, Next Door Brewing Company. There are five (5) residential units (totaling 2,760 square-feet) above the eastern half of the building. A six (6) foot tall and four (4) foot tall chain link fence runs along the entire western and eastern site boundaries respectively, and an eight (8) foot tall solid wood fence runs along the entire southern boundary.

**Surrounding Land Use and Zoning:**

North: Single-family residences, Traditional Residential-Varied 1 District (TR-V1) zoning;

South: Single-family residences, TR-V1 zoning;

East: Office uses, Traditional Shopping Street (TSS) zoning; and

West: A restaurant (Bunky’s Café), Traditional Shopping Street (TSS) zoning.

**Adopted Land Use Plan:** The Comprehensive Plan (2006) recommends Neighborhood Mixed Use (NMU) for the project site, which is generally defined as areas that are characterized by “...clusters of relatively small convenience shopping and service uses that serve as activity centers and gathering places for the surrounding neighborhoods or districts”, with buildings that are generally between two and four stories in height, “well-designed”, and “placed close to the sidewalk and street” (City of Madison Comprehensive Plan, Pg.2-86 & 2-87). The Schenk-Atwood-Starkweather-Worthington Park Neighborhood Plan (2000) recommends the C2 (General Commercial) (from the old, 1966 zoning code) for the project site. While the C2 zoning was later divided into numerous mixed-use and commercial districts, this included the TSS District.

**Zoning Summary:**

The project site is currently zoned Traditional Shopping Street (TSS).

Requirements	Required	Proposed
Front Yard Setback	None	Adequate
Side Yard Setback	Two-story or higher: 6’	Adequate
Rear Yard Setback	The lesser of 20% of lot depth or 20 feet	Existing building
Usable Open Space	40 sq. ft. per unit (200 sq. ft.)	Existing site
Maximum Lot Coverage	85%	TBD (A)
Maximum Building Height	3 stories/ 40’	2 stories existing
Number Parking Stalls	Restaurant-tavern/ brewpub: 15% of capacity of persons (15)	14
Accessible Stalls	Yes	2 (See Comment #14)
Loading	No	No
Number Bike Parking Stalls	Restaurant-tavern/ brewpub: 5% of capacity of persons (5) Multi-family dwelling: 1 per unit up to 2-bedrooms (5) 1 guest space per 10 units (0) Total (10)	12 (See Comment #15)
Landscaping	No	Yes (See Comment #13)
Lighting	No	No
Building Forms	No	No, existing building
Supplemental Requirements	Yes	Yes (See Comments #16, 17 & 18)
<b>Other Critical Zoning Items</b>	Barrier Free (ILHR 69); Utility Easements	

*Table 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 seven day-a-week Metro service along Atwood Avenue.

## Related Reviews and Approvals

On March 16, 2016, the Alcohol License Review Committee (ALRC) recommended approval to change the licensed premise to allow for outdoor seating area with a capacity of 16. The conditions of approval included the limitation of the patio to up to 16 people, a close time of 10:00 pm for the patio, there be no outdoor amplification, and adherence to all conditional use conditions. This change of the licensed premise is anticipated to be before the Common Council on April 9, 2016 for final approval.

## Project Description

The applicant proposes to add an outdoor seating area to an existing brewpub with intent to serve both food and beverage (including alcoholic beverages) in this area. The seating area will be located on the western side of the building, set back just a few feet from the sidewalk along Atwood Avenue. The patio will be non-smoking and have seating for 16 people (note: the final details of the seating plan and capacity to be approved by the Building Inspection Unit). The applicant has stated that no live music will be held in the patio area and in order to comply with the conditions of approval attached to the ALRC's March 16, 2016 motion, the patio will not have amplified music either. The applicant is requesting approval for hours of operation for the patio to be from 11:00 am-10:00 pm, Mondays through Saturdays, and 11:00 am-9:00 pm on Sundays. The applicant anticipates construction commencing on April 15, 2016 and lasting about one month.

The proposed outdoor seating area will consist of a 15-foot by 15-foot fenced-in patio with pavers. An eight (8) foot high solid fence along the southern half of the patio's perimeter will screen the patio from the adjacent parking lot as well as the single-family residents further to the south of the site (approximately 150 feet from the proposed patio location). A three-foot high railing will enclose the remainder of the patio's western side and a large raised planter will define the northern side. A pergola structure will cover the patio providing shade at certain times of the day. Finally, the patio will be accessed via a solid wooden swinging gate at the southeast corner of the patio and an existing door providing access to the main building is just a few feet away.

A number of adjustments to the site will also be undertaken as part of this proposed patio addition. A portion of the drive aisle will be converted to one-way along the west and south and will now circulate so that all cars will exit via the eastern exit. The reduced spatial requirement for automobile circulation will allow for a planting bed to be added west of the patio and will act to buffer the patio from the cars as they enter the parking lot. The automobile parking on site will remain unchanged while a portion of the bicycle parking stalls will be moved to the rear of the site, alongside the trash storage area. Due to the encroachment of the bicycles into the drive aisle, the existing bicycle rack in the northeast corner of the site will need to be reoriented or relocated. Staff recommends the applicant work with staff on the details of this before final sign off.

No structural or programmatic changes to the existing building are proposed.

## Analysis and Conclusion

**Land Use and Plan Consistency** –This proposed use is consistent with the Comprehensive Plan recommendation of neighborhood-oriented businesses whose buildings have a scale that is consistent with the surrounding neighborhood and are placed close to the sidewalk with pedestrian-friendly amenities. It is also generally in line with the Schenk-Atwood-Starkweather-Worthington Park Neighborhood Plan's Schenk-Atwood Area Business Development Recommendation #4 (on page 35) which states: *"Encourage the business community and neighborhood to develop an image of the Schenk-Atwood corridor that will attract old and new customers to the area to dine and shop. Outdoor cafes, farmers market, and entertainment venues are possible attractions for area businesses to pursue"* (Schenk-Atwood-Starkweather-Worthington Park Neighborhood Plan, pg. 35).

**Conditional Use Standards** - Staff believes that if well managed, the proposed outdoor eating area should not result in significant impacts to the surrounding properties. Factors such as the limited scale and capacity of the proposed patio; its placement along the sidewalk (and as far from the neighboring residents as possible), and orientation completely towards the street; the lack of amplified sound and aural mitigation provided by the solid eight (8) foot high walls around the southern half of the patio; the proposed hours of operation; the proposed landscaping; and the proposed conditions of approval will help mitigate anticipated 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 Section 28.183(9)(d). At the time of report writing, staff was not aware of any concerns on this request.

**Conclusion** - Staff believes that the proposed outdoor eating area meets the conditional use approval standards and recommends that it be approved by the Plan Commission.

## Recommendation

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

The Planning Division recommends that the Plan Commission find that the standards for conditional uses is met and **approve** the conditional use to add an outdoor seating area to an existing brewpub on a property zoned TSS (Traditional Shopping Street) at 2439 Atwood Avenue. This request is subject to 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 Chris Wells, (608) 261-9135)

1. There shall be no amplified sound, including, but not limited to television, ambient music or musical performances, in the outdoor eating area.
2. The hours of operation for the outdoor eating area shall be 11:00 am-10:00 pm, Mondays through Saturdays, and 11:00 am-9:00 pm on Sundays.
3. Pending review by the Building Inspection Division, the capacity of the outdoor eating area shall not exceed **16 persons** (as approved by the Alcohol License Review Committee).

#### City Engineering Review Mapping (Contact Jeff Quamme, (608) 266-4097)

4. The parcel dimensions shown vary from a survey by Williamson Surveying M1103 at the Dane County Surveyor's Office. The site plan shall reflect correct boundary dimensions.
5. The raised planter shown per the landscape plan shall not have any portion located within the public right of way of Atwood Avenue.

6. The Applicant shall submit, prior to plan sign-off, a digital CAD file (single file) to the Engineering Program Specialist in the Engineering Division (Lori Zenchenko). The digital CAD file shall be to scale and represent final construction. The CAD file shall be in a designated coordinate system (preferably Dane County WISCRS, US Ft). The single CAD file submittal can be either AutoCAD (dwg) Version 2013 or older, MicroStation (dgn) V8i Select Series 3 or older, or Universal (dxf) format and shall contain the only the following data, each on a separate layer name/level number:

- 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

All other levels (contours, setbacks, elevations, easements, etc) are not to be included with this file submittal.

NOTE: Email file transmissions preferred [lzenchenko@cityofmadison.com](mailto:lzenchenko@cityofmadison.com). Include the site address in the subject line of this transmittal. Any changes or additions to the location of the building, sidewalks, parking/pavement during construction will require a new CAD file.

**Traffic Engineering Division** (Contact Eric Halvorson, (608) 266-6527)

7. Typically a bicycle parking stall is 2' x 6' and as such is encroaching on the 12' one-way drive aisle. The applicant shall modify the bicycle parking in one of the following ways: 1. Move the bicycle parking to another location with the required space. 2. Install parallel stalls that do not encroach on the drive aisle. 3. Modify the drive aisle and entrance to the 10' minimum for one-way operation (this option will require a reconstruct of the entrance and a new driveway approach permit).
8. 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.
9. All parking facility design shall conform to MGO standards, as set in section 10.08(6).
10. Traffic Engineering will no longer be accepting paper plans; to ensure a timely review all submittals will include an electronic copy (.pdf preferred).
11. One way operation shall be secured using signage and pavement markings. "One Way Signs" and "Do Not Enter", all signage shall be noted on the plan.

**Zoning Administrator** (Contact Jenny Kirchgatter, (608) 266-4569)

12. Work with Zoning staff to verify the lot coverage requirement. The site currently exceeds the maximum lot coverage requirement of 85%. Lot coverage is defined as the total area of all buildings, measured at grade, all accessory structures including pools, 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. The proposed outdoor eating area cannot further increase the lot coverage above the existing level. Pervious pavers may be installed or additional landscaped areas planted to maintain the current percentage of pervious and impervious areas.
13. Revise the site plan and/ or landscape plan to be consistent. The arrangement of the parking lot and bicycle parking areas are not shown consistently between the two plan pages.
14. Parking requirements for persons with disabilities must comply with Section 28.141(4)(e). Show the required access aisles and dimensions of the two existing accessible stalls. One (1) stall must be van accessible. A van accessible stall is a minimum of eight (8) feet wide with an eight (8) foot wide striped access aisle.
15. A minimum of ten (10) bicycle stalls are required (5 for the existing residential units and 5 for the restaurant tavern) located in a convenient and visible area. Clearly show the dimensions of the bicycle stalls. A bicycle parking stall is a minimum of two (2) feet by six (6) feet with a five (5) foot wide access aisle. Submit a detail showing the model of bike rack to be installed. Note that the locations of the proposed bicycle stalls are not shown consistently on the submitted plans.
16. Submit a seating plan for the outdoor eating area showing the layout of the tables and chairs.
17. The primary access to the outdoor eating area shall be from within the establishment. Provide a means to control outdoor access to the eating area so that the primary access shall be from within the establishment.
18. The outdoor eating area and pergola structure shall meet applicable building/fire codes. The capacity shall be established for the outdoor eating area. Occupant capacity is established by the Building Inspection Unit. Contact Mike VanErem at (608) 266-4559 to help facilitate this process.

**Water Utility** (Contact Dennis Cawley, (608) 261-9243)

19. All operating private wells shall be identified and permitted by the Water Utility in accordance with MGO 13.21. All unused private wells shall be abandoned in accordance with MGO 13.21.