



PREPARED FOR THE PLAN COMMISSION

Project Address: 710 John Nolen Drive (14th Alder District, Ald. Carter)
Application Type: Conditional Use
Legistar File ID #: [70541](#)
Prepared By: Lisa McNabola, Planning Division
Report Includes Comments from other City Agencies, as noted
Reviewed By: Kevin Firchow, AICP, Principal Planner

Summary

Applicant & Contact: Josh Wilcox; GBA Architecture and Design; 2248 Deming Way, Suite 120, Middleton, WI 53562

Property Owner: Nolen Center Investments & Associates, LLC; 801 Broad St, Suite 200, Chattanooga, TN 37402

Requested Action: Consideration of a conditional use in the Suburban Employment (SE) District to allow a restaurant-tavern in an existing office building and an outdoor seating area at 710 John Nolen Drive.

Proposal Summary: The applicant proposes to establish a restaurant-tavern with an outdoor eating area in a portion of an existing, two-story office building.

Applicable Regulations & Standards: This proposal is subject to the standards for Conditional Uses [MGO §28.183] as Table 28F-1 [MGO §28.082] lists a *restaurant-tavern* and *outdoor eating areas associated with food and beverage establishments* as conditional uses in the Suburban Employment (SE) District. The Supplemental Regulations [MGO §28.151] contain further regulations for this use.

Review Required By: Urban Design Commission (UDC) and 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 request to allow a restaurant-tavern and outdoor eating area in an existing office building in the Suburban Employment (SE) District at 710 John Nolen Drive. This request is subject to the input at the public hearing and the conditions recommended by the reviewing agencies.

Background Information

Parcel Location: The 28,425 square-foot (.65-acre) parcel is located at the northeast corner of John Nolen Drive and Rimrock Road. It is also located within Alder District 14 (Ald. Carter) and the Madison Metropolitan School District.

Existing Conditions and Land Use: The site is occupied by an 11,690 square-foot, two-story structure, built in 1999. It is zoned Suburban Employment (SE) District.

Surrounding Land Use and Zoning:

North: Sheraton Hotel, zoned Suburban Employment (SE) District;

East: Across John Nolen Drive Service Road, Comfort Inn, zoned SE District;

South: Capital City Trail. Across John Nolen Drive, one-story office building, zoned SE District; and

West: Across John Nolen Drive, Alliant Energy Center (Town of Madison).

Adopted Land Use Plan: The [2018 Comprehensive Plan](#) recommends Employment (E) development for the subject property and adjacent properties. The [South Madison Plan](#) (2022) recommends Employment (E) development for the subject property and adjacent properties.

Zoning Summary: The property is zoned Suburban Employment (SE) District.

Requirements	Required	Proposed
Lot Area (sq. ft.)	20,000	28,425
Lot Width	65 ft	136 ft
Front Yard Setback	5 ft	Existing
Side Yard Setback	15 ft	Existing
Rear Yard Setback	30 ft	Existing
Maximum Lot Coverage	75%	70%
Minimum Building Height	22 ft	Existing
Maximum Building Height	5 stories/68 ft	Existing

Site Design	Required	Proposed
Number Parking Stalls	15% of capacity	29 (1.)
Accessible Stalls	2	2
Loading	No	No
Number Bike Parking Stalls	5% of capacity	14 (1.)
Landscaping	Yes	Yes (2.)
Lighting	No	Yes
Building Forms	Yes	Existing

Table Prepared by Jacob Moskowitz, Assistant Zoning Administrator

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

Public Utilities and Services: This property is served by a full range of urban services.

Project Description

The applicant proposes to establish a restaurant-tavern with an outdoor eating area in an office building at 710 John Nolen Drive. The restaurant-tavern will occupy the first floor and a portion of the second floor. The 780 square-foot outdoor eating area is located along the eastern side of the building next to the parking lot. The plans show 48 seats in the outdoor eating area. The owner plans to have a training kitchen and offices on the second floor. The proposed hours of operation for the restaurant-tavern are Monday to Sunday, 8:00 a.m. – 2:00 a.m.

The building exterior would be updated with black, terracotta, and beige painted EIFS, stone veneer, and an exterior mural. A glass vestibule entrance will be constructed along the eastern side of the building. The outdoor eating area will be covered by an open beam trellis with a decorative fence and gate facing John Nolen Drive. The parking lot and landscaping will be updated.

Analysis and Conclusion

This proposal is subject to the standards for Conditional Uses [MGO §28.183] as Table 28F-1 [MGO §28.082] lists a *restaurant-tavern* and *outdoor eating areas associated with food and beverage establishments* as conditional uses in the Suburban Employment (SE) District. The Supplemental Regulations [MGO §28.151] contain further regulations for this use.

Conformance with Adopted Plans

The [2018 Comprehensive Plan](#) recommends Employment (E) development for the subject site. Staff do not believe that establishing a restaurant-tavern use in a portion of an existing office building would impede the development or operation of employment uses in the surrounding area. Staff consider restaurant uses compatible and complementary to employment uses. The [South Madison Plan](#) (2022) recommends Employment (E) development for the subject site.

Conditional Use Standards

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. Please note, 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.

Given due consideration, the Planning Division anticipates that the conversion of office space into a restaurant-tavern use should not result in significant negative impacts to the surrounding properties. 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).

Staff believes that the Conditional Use Standards can be found met.

Supplemental Regulations

According to Table 28F-1 [MGO §28.082], a *restaurant-tavern* must adhere to the Supplemental Regulations found in MGO §28.151:

- a) Maximum capacity to be established by the Director of the Building Inspection Division, not to exceed the number of available seats, plus staff, plus a reasonable number of people waiting for seats.
- b) Restaurant-Taverns shall not hold an entertainment license under Sec. 38.06(11).
- c) Restaurant-Taverns shall at all times operate consistent with and according to the requirements of a valid alcohol license issued by the City.

According to Table 28F-1 [MGO §28.082], an *outdoor seating area associated with food and beverage establishments* as must adhere to the Supplemental Regulations found in MGO §28.151:

- 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.

Staff believes that all of the Supplemental Regulations can be found met.

Urban Design District 1

On April 27, 2022, the Urban Design Commission (UDC) gave the proposed building and site alterations initial approval with recommendations to reconsider the building materials and landscaping. For more information, see Legistar item [70584](#).

Conclusion

Staff believe that the proposed restaurant-tavern and outdoor eating area can be found to meet the Conditional Use Approval Standards and recommends that it 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 regarding this request.

Recommendation

Planning Division Recommendation (Contact Lisa McNabola, 243-0554)

The Planning Division recommends that the Plan Commission find that the approval standards for conditional uses are met and **approve** the request to allow a restaurant-tavern and outdoor eating area in the Suburban Employment (SE) District at 710 John Nolen Drive. This recommendation is subject to input at the public hearing and the following conditions:

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

Zoning (Contact Jacob Moskowitz, 266-4560)

1. Maximum capacity to be established by the Director of the Building Inspection Division, not to exceed the number of available seats, plus staff, plus a reasonable number of people waiting for seats. Final bicycle and car parking requirements will be based on this capacity.
2. 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.
3. 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.
4. Restaurant-Taverns shall not hold an entertainment license under Sec. 38.06(11). Restaurant-Taverns shall at all times operate consistent with and according to the requirements of a valid alcohol license issued by the City.

Engineering Division (Contact Tim Troester, 267-1995)

5. Based on WDNR BRRRTS Record #03-13-001512 HARLEY HOTEL PROPERTY, the property contains residual contamination. If contamination is encountered, follow all WDNR and DSPS regulations for proper handling and disposal.

6. This site appears to have a land use that will result in their inclusion as a restaurant class sanitary sewer customer. This will charge commercial kitchen facilities a higher sanitary sewer fee per gallon than domestic users and is based on strengths of waste measured at representative similar customers throughout the City. If the applicant desires, a sampling structure may be installed, as part of the initial construction at their cost, to allow site-specific sampling of their waste to determine sanitary sewer charges specifically for this site. If no sampling structure is installed, this site will default to the restaurant class code in MGO Chapter 35. If you have questions on the restaurant class sewer charges please contact Megan Eberhardt at Meberhardt@cityofmadison.com or 608-266-6432.

Fire Department (Contact William Sullivan, 261-9658)

7. MFD does not support the use of open flames in assembly occupancy due to occupant burn safety concerns.

Forestry Section (Contact Bradley Hofmann, 267-4908)

8. An existing inventory of street trees located within the right of way shall be included on the site, demo, utility, landscape, grading, fire aerial apparatus and street tree plan sets. The inventory shall include the following: location, size (diameter at 4 1/2 feet), and species of existing street trees. The inventory should also note if a street tree is proposed to be removed and the reason for removal.

9. All proposed street tree removals within the right of way shall be reviewed by City Forestry before the Plan Commission meeting. Street tree removals require approval and a tree removal permit issued by City Forestry. Any street tree removals requested after the development plan is approved by the Plan Commission or the Board of Public Works and City Forestry will require a minimum of a 72-hour review period which shall include the notification of the Alderperson within who's district is affected by the street tree removal(s) prior to a tree removal permit being issued. Add as a note on the street tree plan set.

10. Contractor shall take precautions during construction to not disfigure, scar, or impair the health of any street tree. Contractor shall operate equipment in a manner as to not damage the branches of the street tree(s). This may require using smaller equipment and loading and unloading materials in a designated space away from trees on the construction site. Any damage or injury to existing street trees (either above or below ground) shall be reported immediately to City Forestry at (608) 266-4816. Penalties and remediation shall be required. Add as a note on the site, grading, utility, demolition, and street tree plan set.

11. As defined by the Section 107.13 of City of Madison Standard Specifications for Public Works Construction: No excavation is permitted within 5 feet of the trunk of the street tree or when cutting roots over 3 inches in diameter. If excavation is necessary, the Contractor shall contact Madison City

Forestry at (608) 266-4816 prior to excavation. City of Madison Forestry personnel shall assess the impact to the tree and to its root system prior to work commencing. Tree protection specifications can be found on the following website: <https://www.cityofmadison.com/business/pw/specs.cfm> Add as a note on the site, grading, utility, demolition and street tree plan sets.

12. Section 107.13(g) of City of Madison Standard Specifications for Public Works Construction (website: <https://www.cityofmadison.com/business/pw/specs.cfm>) addresses soil compaction near street trees and shall be followed by Contractor. The storage of parked vehicles, construction equipment, building materials, refuse, excavated spoils or dumping of poisonous materials on or around trees and roots within five (5) feet of the tree or within the protection zone is prohibited. Add as a note on both the site and street tree plan sets.
13. 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 both the site and street tree plan sets.
14. Street tree pruning shall be coordinated with City Forestry at a minimum of two weeks prior to the start of construction for this project. Contact City Forestry at (608)266-4816. All pruning shall follow the American National Standards Institute (ANSI) A300 - Part 1 Standards for pruning. Add as a note on both the site and street plan sets.

The following agencies reviewed the request and recommended no conditions of approval: Traffic Engineering, Water Utility, Metro Transit, City Engineering Division – Mapping Section.