



PREPARED FOR THE PLAN COMMISSION

**Project Address:** 101 N Hamilton Street (District 4 – Ald. Verveer)

**Application Type:** Conditional Use

**Legistar File ID #** [51950](#)

**Prepared By:** Sydney Prusak, Planning Division  
Report Includes Comments from other City Agencies, as noted

**Reviewed By:** Kevin Firchow, AICP, Planning Division

**Summary**

**Applicant & Contact:** Josh Jiru; Boar & Barrel; 101 N Hamilton Street; Madison, WI 53704

**Property Owner:** Scott McCullough; 864 Ravinia Court; Batavia, IL 60510

**Requested Action:** The applicant requests approval of a conditional use to establish an outdoor seating area for an existing restaurant-tavern on a property zoned DC (Downtown Core District) at 101 N Hamilton Street.

**Proposal Summary:** The applicant proposes to establish an outdoor seating area for an existing restaurant-tavern. The seating area would be located on the enclosed patio immediately adjacent to the restaurant and have ten (10) seats for customers.

**Applicable Regulations & Standards:** This proposal is subject to the standards for Conditional Uses [MGO §28.183] as MGO §28.061 lists *outdoor eating areas associated with food and beverage establishments* as conditional uses in the Downtown Core (DC) 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 request to establish an outdoor seating area for a restaurant-tavern on a property zoned DC (Downtown Core District) at 101 N Hamilton Street. These requests are subject to the input at the public hearing and the conditions recommended by the reviewing agencies.

**Background Information**

**Parcel Location:** The 1,872-square-foot (0.4-acre) project site is located at the corner of N Hamilton Street, at the intersection with E Mifflin Street and N Pinckney Street. The site is within both Aldermanic District 4 (Ald. Verveer) and the Madison Metropolitan School District.

**Existing Conditions and Land Use:** The subject parcel contains a two-story, 4,662-square-foot commercial building that is occupied by a restaurant-tavern. City Assessor records state that the building was originally constructed in 1850 and has undergone many interior renovations since.

**Surrounding Land Use and Zoning:**

North: Multi-family residential condominiums, zoned PD (Planned Development);

East: The YWCA and the Bartell Theater, zoned DC (Downtown Core);

South: The Wisconsin State Capitol, zoned DC; and  
West: The Madison Children’s Museum, zoned DC.

**Adopted Land Use Plan:** The [Comprehensive Plan \(2006\)](#) and the [Downtown Plan \(2012\)](#) both recommend downtown mixed-use for the subject property.

**Zoning Summary:** The project site is currently zoned Downtown Core (DC).

Site Design	Required	Proposed
Number parking stalls	0	0
Accessible stalls	0	0
Loading	0	0
Number bike parking stalls	3	0 (1)

<b>Other Critical Zoning Items</b>	Urban Design District
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*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

The applicant, Boar and Barrel, proposes to establish an outdoor seating area for an existing restaurant-tavern. The outdoor seating area will be located on the existing front patio at the corner of N Hamilton Street. This building is a designated City historic landmark, however no exterior changes to the building other than changes to the fencing are proposed with this request. The previous tenant, Blue Marlin, used this patio as an outdoor eating area, but they never obtained the necessary conditional use approval.

The applicant is proposing ten (10) chairs for restaurant-tavern patrons to consume drinks or wait for a dining table inside. As proposed, the hours of operation for outdoor eating area would coincide with the hours of operation for the restaurant-tavern (3:00 p.m. – 11:00 p.m. Monday – Friday and 11:00 a.m. – 11:00 p.m. on Saturdays). No amplified sound would be played in the outdoor eating area. The applicant has indicated that there will be no tables on the patio and that this will be a space exclusively for customers to have drinks. There will be a server occasionally circulating the patio to take and bring out drink orders to customers.

The applicant intends on replacing the current bar rail on the fence with a wider top and small backsplash to prevent any spills on to the right-of-way. As a condition of approval, the applicant must submit the fence detailing to be reviewed by the City’s Landmarks Commission or Preservation Planner.

## Analysis and Conclusion

### 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 §28.183(6) MGO are met. Staff believes that this proposed use is compatible with both the

[Comprehensive Plan \(2006\)](#) and the [Downtown Plan \(2012\)](#), which both recommend Downtown Mixed-Use for the subject site.

Conditional Use Standard #3 states that, “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.” The Planning Division believes that this standard can be found met. If well managed, Staff does not anticipate that the proposed outdoor seating area should result in significant impacts to the surrounding properties. Factors such as the limited size of the patio; no food service; the lack of any amplified or live music on the exterior; the location in front of the building, oriented away from residences; and the proposed conditions of approval will help mitigate possible impacts. Furthermore, as a condition of approval, Staff will require a more detailed and scaled seating plan to ensure that the number of seats does not exceed the capacity set by Building Inspection.

### Supplemental Regulations

MGO §28.151 contains further regulations for outdoor eating areas associated with food and beverage establishments. First, primary access to the area shall be from within the establishment. According to the site plan provided, this requirement has been fulfilled. Second, hours of operation may be restricted and noise and lighting limits imposed as part of the conditional use approval. The Planning Division has provided conditions of approval to regulate the outdoor music and sound. Lastly, 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 neighborhood. Staff does not believe that the applicant needs to provide additional site improvements to mitigate the impacts on surrounding properties. While there are adjacent residential uses, the proposed outdoor seating area would occupy a small space in front of the restaurant-tavern and would front the Capitol Square, which is a lively urban environment.

### Conclusion

Staff believes that the proposed outdoor seating area can be found to meet the conditional use approval standards and recommends that it be approved by the Plan Commission. At the time of report writing, staff was not aware of any concerns on this request.

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 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 request to establish an outdoor eating area for an existing restaurant-tavern on a property zoned DC (Downtown Core District) 101 N Hamilton Street. These requests are 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 hours of operation for the outdoor eating area located in front of the space addressed as 101 N Hamilton, shall be 3:00 p.m. – 11:00 p.m. Monday through Friday and 11:00 a.m. – 11:00 p.m. on Saturdays. Future modifications to the hours of operation of the outdoor eating area may be considered as a minor alteration of the conditional use following a recommendation by the District Alder.
2. The capacity of the outdoor eating area located in front of the space addressed as 101 N Hamilton shall not exceed 10 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 following a recommendation by the district alder and approval from the Building Inspection Unit.
3. There shall be no amplified sound, including, but not limited to television, ambient music or musical performances, in the outdoor eating area located in front of the tenant space addressed as 101 N Hamilton.
4. The applicant shall submit a more detailed and scaled seating plan that indicates exactly how many seats will be on the patio, as well as materials for the updated fencing, to be reviewed for final sign-off.
5. Changes to the exterior and railing require approval by the Landmarks Commission or the Preservation Planner per MGO §41.18(1)(a).

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

6. The applicant shall work with Traffic Engineering to secure outdoor eating area. Typically this is done with a gate that has a swing radius that does not encroach on the Right of Way.
7. 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.

**Zoning** (Contact Jacob Moskowitz, (608) 266-4569)

7. A bicycle parking reduction will be required per Section 28.141(5). Submit a request for a bicycle parking reduction with the final plan submittal including information to support the argument for reducing the required number of bicycle spaces.
8. Meet applicable building/fire codes. 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.
9. If you have a license to sell alcohol in an outdoor eating area, the Alcohol License Review Committee will establish conditions for operation, which involve fencing, security guards, toilet facilities, litter, etc. All businesses that sell alcohol must comply with the requirements imposed by the Alcohol License Review

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Committee at the time of issuance of your original application to expand or change your licensed premises to include the outdoor eating area. It is your responsibility to have the outdoor service area added to your licensed premise. Please contact the City Clerk's office for assistance ALRC issues.