



PREPARED FOR THE PLAN COMMISSION

**Project Address:** 1401 Emil Street (14<sup>th</sup> Aldermanic District, Alder Carter)  
**Application Type:** Conditional Use  
**Legistar File ID #:** [44566](#)  
**Prepared By:** Kevin Firchow, AICP, Planning Division  
Report Includes Comments from other City Agencies, as noted

## Summary

**Applicant | Contact:** Scott Faust; Boardwalk Investments, LLC; 210 North Bassett St; #100; Madison, WI 53703

**Owner:** Maxjet LLC; 210 North Bassett St. #100; Madison, WI 53703

**Requested Action:** The applicant requests Conditional Use approval to establish vehicle access sales and service window for an existing multi-tenant building.

**Proposal Summary:** The applicant proposes to establish a Vehicle Access Sales and Service (“drive-through”) Window serving a restaurant. The Plan Commission previously approved a “drive-through” on this site in 2013 and the related physical improvements were installed. However, the previous prospective tenant did not occupy the space and the Conditional Use was not established prior to the 2013 approval expiring.

**Applicable Regulations & Standards:** This request is subject to the Conditional Use standards of §28.183(6) MGO and the Supplemental Regulations for Vehicle Access Sales and Service Windows of §28.151 MGO. The Supplemental Regulations are included as an attachment to this report.

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

**Summary Recommendation:** The Planning Division recommends that the Plan Commission find that the Conditional Use standards are met and **approve** the request to establish a Vehicle Access Sales and Service window in a multi-tenant building at 1401 Emil Street. This recommendation is subject to input at the public hearing and the conditions recommended by the Planning Division and other reviewing agencies.

## Background Information

**Parcel Location:** 1401 Emil Street is located on the southwest corner of Emil Street and Damon Road, just west of Fish Hatchery Road. The site is within Aldermanic District 14 (Ald. Carter) and is within the limits of the Madison Metropolitan School District.

**Existing Conditions and Land Use:** The site includes an existing multi-tenant building, approved with a vehicle access sales and service window in 2013.

**Surrounding Land Use and Zoning:**

North: Office, zoned Industrial Limited (IL);

South: Office, zoned IL;

East: Various commercial development (on the other side of Fish Hatchery Road) zoned CC (Commercial Center; and

West: Restaurants and Offices, zoned IL and CC.

**Adopted Land Use Plan:** The Comprehensive Plan (2006) recommends general commercial uses for the subject site.

**Zoning Summary:** This property is zoned CC (Commercial Center District). As no site plan changes were proposed, the Zoning Office did not provide a summary zoning table.

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

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

## Previous Approvals

In 2013, the Plan Commission approved the demolition of a vacant restaurant to allow the construction of a one-story building with a drive-up service window. (These are referred to as "Vehicle Access Sales and Service Windows" in the current zoning code). That site was constructed in accordance with the approved plans, including the drive-up service lane. However, the prospective tenant never occupied the space and the Conditional Use approval for the "drive-through" window has expired. It is beyond the three-year timeline in which that Conditional Use could be extended administratively.

## Project Description, Analysis, and Conclusion

The applicant requests conditional use approval to establish a Vehicle Access Sales and Service ("drive-through") Window. This request is subject to the approval standards for Conditional Uses and the Supplemental Regulations for Vehicle Access Sales and Service Windows. As noted above, the Plan Commission approved a Conditional Use for a "drive-through" facility in 2013, in conjunction with a demolition permit for a previous structure. After that approval, the new building was constructed and physical improvements related to the "drive-through" were installed per the approved plans.

The letter of intent states that the proposed "drive-through" facility would serve a restaurant tenant, though the specific tenant was not identified in the applicant's materials. It is proposed to be operated 24-hours a day, seven days a week. As shown on the attached plan, the access lane wraps around the rear (south) side of the building with the service window located along the building's west side.

In regards to the approval standards, the Plan Commission shall not approve a conditional use without due consideration of the City's adopted plans and finding that all of the conditional use standards of §28.183(6) MGO are met. The Comprehensive Plan recommends general commercial development for the subject property and this use is consistent with that recommendation. Considering its location away from residential development, the Planning Division does not anticipate that the establishment of this use will have a negative impact on surrounding properties. The Planning Division believes the conditional use standards can be met. At the time of report writing, the Planning Division was not aware of concerns on this application.

## Recommendation

### Planning Division Recommendation (Contact Kevin Firchow, (608) 267-1150)

The Planning Division recommends that the Plan Commission find that the conditional use standards are met and **approve** the request to establish a vehicle access sales and service window in a multi-tenant building at 1401 Emil Street. This recommendation is subject to input at the public hearing and the conditions recommended by the Planning Division and other reviewing agencies.

### **Recommended Conditions of Approval**

Major/Non-Standard Conditions are Shaded
--

### Planning Division (Contact Kevin Firchow, (608) 267-1150)

The agency reviewed this request and has recommended no conditions or approval.

### City Engineering Division (Contact Tim Troester, (608) 267-1995)

The agency reviewed this request and has recommended no conditions or approval.

### City Engineering Division - Mapping (Contact Jeffrey Quamme, (608) 266-4097)

The agency reviewed this request and has recommended no conditions or approval.

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

1. 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.
2. The Developer shall post a security deposit prior to the start of development. In the event that modifications need to be made to any City owned and/or maintained traffic signals, street lighting, signing, pavement marking and conduit/handholes, the Developer shall reimburse the City for all associated costs including engineering, labor and materials for both temporary and permanent installations.
3. The City Traffic Engineer may require public signing and marking related to the development; the Developer shall be financially responsible for such signing and marking.
4. All parking facility design shall conform to MGO standards, as set in section 10.08(6).
5. The applicant shall install a 'Right Turn Only' sign under the stop sign on the northern most entrance on Damon Road.

**Fire Department** (Contact Bill Sullivan, (608) 261-9658)

The agency reviewed this request and has recommended no conditions or approval.

**Zoning Administrator** (Contact Jenny Kirchgatter, (608) 266-4429)

The agency reviewed this request and has recommended no conditions or approval.

**Parks / Forestry** (Contact Janet Schmidt, (608) 261-9688)

The agency reviewed this request and has recommended no conditions or approval.

**Water Utility** (Contact Adam Wiederhoeft, (608) 266-9121)

The agency reviewed this request and has recommended no conditions or approval.

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

The agency reviewed this request and has recommended no conditions or approval.

# SUPPLEMENTAL REGULATIONS

Sec. 28.151

ZONING CODE



## Vehicle Access Sales and Service Windows.

- (a) In CC-T, TE, DC, and UMX Districts, vehicle access sales and service windows shall be located to the side or rear of buildings, shall not be located between the principal structure and a public street. In all districts, vehicle access sales and services windows shall be at least sixty (60) feet from the closest point of any residentially zoned property or property with a residential building. (Am. by ORD-15-00001, 1-14-15)
- (b) Points of vehicular ingress and egress shall be located at least sixty (60) feet from the intersection of two streets and at least sixty (60) feet from abutting residentially zoned property.
- (c) Plans for onsite circulation and driveway locations shall be reviewed where conditional use approval is required. Site design shall accommodate a logical and safe vehicle and pedestrian circulation pattern. Adequate queuing lane space shall be provided without interfering with onsite parking/circulation.
- (d) Speaker box sounds from the drive-through lane shall not be plainly audible so as to unreasonably disturb the peace and quiet of abutting residential property.
- (e) Drive-through canopies and other structures, where present, shall be constructed from the same materials as the primary building and with a similar level of architectural quality and detailing.
- (f) A six- (6) foot buffer area with screen planting and an obscuring wall or fence shall be required along any property line adjoining an existing residence or residentially zoned property.
- (g) Bicyclist use of sales and service windows shall not be prohibited.

## Vending Machines.

- (a) Outdoor vending machine shall be accessory only to retail uses, schools, athletic facilities, parks and golf courses.
- (b) For retail uses, outdoor vending machines are allowed only for:
  1. Single-occupant buildings with more than twenty-five hundred (2,500) square feet of floor area. (Am. by ORD-15-00033, 4-8-15)
  2. Individual tenants with at least thirty (30) lineal feet of storefront in a multi-tenant building.
  3. When the product sold in the vending machine also is sold in the principal retail use.
- (c) No individual outdoor vending machine shall exceed five (5) feet in width, three (3) feet in depth and seven (7) feet in height.
- (d) No more than one (1) outdoor vending machine shall be located per building façade.
- (e) Outdoor vending machines shall be flush against the facade of the principal structure, and shall not project into the public right-of-way.
- (f) Outdoor vending machines shall be placed on an impervious surface, such as concrete or asphalt.
- (g) No outdoor vending machines shall be located so as to impede pedestrian access or circulation, obstruct parking areas or create an unsafe condition. There shall be at least five (5) feet of clear pedestrian access at all times, unless the development is subject to the large retail standards in Sec. 33.24(4)(f), MGO, in which case, eight (8) feet of clearance is required.
- (h) When located at a school, athletic facility, park or golf course, outdoor vending machines shall be a minimum of fifty (50) feet from a property line, unless located behind a solid fence or screening to prevent public use.

Veterinary Clinic, Animal Hospital. All activity shall take place within completely enclosed buildings with soundproofing and odor control.

## Walk-Up Service Windows.

- (a) If located within ten (10) feet of a public right-of-way, conditional use approval is required.

Wind Energy Systems. Wind energy systems shall comply with Sec. 28.149, MGO. (Am. by ORD-14-00027, 2-18-14)

Yard Sales. A yard sale shall not exceed four (4) days in duration, and no more than one sale shall be held in any three- (3) month period.