



## Report to the Plan Commission

September 20, 2010

**Legistar I.D. #19907**  
**2801 Atwood Avenue**  
**Conditional Use Alteration**

Report Prepared By:  
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Planning Division

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**Requested Action:** Approval of a major alteration to an approved conditional use to allow the sale of alcohol at a gas station/ convenience store located at 2801 Atwood Avenue.

**Applicable Regulations & Standards:** Section 28.09(3)(d) identifies automobile service stations for the retail sale and dispensing of fuel, lubricants, etc. as a conditional use in the C2 General Commercial District. Section 28.12(11) provides the guidelines and regulations for the approval of conditional uses.

**Summary Recommendation:** If the Plan Commission can find that the conditional use standards can be met, the Planning Division recommends that the Commission **approve** a major alteration to the approved conditional use for the gas station convenience store at 2801 Atwood Avenue to allow the sale of alcoholic beverages, subject to input at the public hearing and the conditions from reviewing agencies beginning on page 3 of this report. The applicants will need to receive separate approval of the necessary licenses to sell alcohol from the Common Council following a recommendation by the Alcohol License Review Committee.

### Background Information

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**Applicant & Property Owner:** Pema Chozom & Ramesh K. Chhabra, Chozom, LLC; 2801 Atwood Avenue; Madison.

**Proposal:** The applicants are requesting modification of a 2006 Plan Commission condition of approval prohibiting alcohol sales at the convenience store on the subject site. No other modifications to the site or conditions of approval are being requested at the present time.

**Existing Conditions:** The subject site is developed with a one-story, 1,650 square-foot convenience store and 3 gas dispensing pump islands covered by a single canopy, zoned C2 (General Commercial District).

**Parcel Location:** An approximately 0.34-acre parcel located at the southeastern corner of Atwood and Miller avenues; Aldermanic District 6; Madison Metropolitan School District.

#### **Surrounding Land Use and Zoning:**

North: Madison Kipp Corporation, zoned C2 (General Commercial District) and M1 (Limited Manufacturing District);

South: Single-, two- and multi-family residences, zoned R4 (General Residence District);

East: Two-family residences along Atwood Avenue, zoned C2;

West: Neighborhood commercial uses along Atwood Avenue, zoned C2; Single- and two-family residences along north side of Sommers Avenue, zoned R4.

**Adopted Land Use Plan:** The Comprehensive Plan recommends the subject site and properties on both sides of Atwood Avenue (except the Madison Kipp Corporation manufacturing building on the

north side of Atwood) for neighborhood mixed-use development. The property is also located within the boundaries of the 2000 Schenk-Atwood-Starkweather-Yahara-Worthington Park Neighborhood Plan, which makes no specific land use recommendations but includes general neighborhood goals calling for the preservation of the existing land use pattern in the neighborhood, the development of more flexible off-street parking requirements, and redress of pedestrian safety and traffic management issues in the Atwood Avenue corridor.

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

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

**Zoning Summary:** Existing C2 (General Commercial District) zoning; the existing use of the site conforms to all applicable zoning requirements pursuant to the 2006 conditional use approval and no site or building modifications are proposed with the subject request.

## **Previous Approval**

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On June 19, 2006, the Plan Commission approved a demolition permit and a conditional use for an automobile service station to allow a 384 square-foot gas station convenience store to be demolished and a new 1,650 square-foot convenience store to be constructed. Three existing pump islands and a canopy on the site were retained.

As part of the approval of the demolition permit and conditional use, the Plan Commission added the following conditions:

- The business shall close at 10:00 p.m. daily.
- **Alcohol sales shall not be permitted at this location.**
- The rear (yard) of the proposed convenience store shall be enclosed with a suitable enclosure as approved by the Planning [Division].
- The applicant shall reestablish a tree line along the southern property line per a revised landscaping plan approved by the Planning [Division].
- Suitable screening shall be provided along the southern property line between the commercial property and adjacent residential properties to the south per a plan approved by the Planning [Division].

## **Project Review Analysis & Conclusion**

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As noted in the preceding section, the existing 1,650 gas station convenience store was approved by the Plan Commission on June 19, 2006 with a condition prohibiting the sale of alcohol. The applicants (and new owners of the gas station as of October 2009) are requesting that this condition of approval be removed by the Plan Commission as stated in the attached letter of intent. The applicants will be seeking approval of the necessary licenses from the Alcohol License Review Committee and Common Council to sell alcoholic beverages in the convenience store separately.

The above-listed conditions of approval, including the prohibition of alcohol sales, were requested by former 6th District alder (and current Plan Commission citizen member) Judy Olson with the support of the Schenk-Atwood-Starkweather-Yahara Neighborhood Association and nearby property owners, and

with the agreement of the 2006 Plan Commission applicant and former property owner, Mr. Murthy Polasa.

In reviewing the 2006 application, Planning Division staff believed that the standards of approval for demolition permits and conditional uses could be met and recommended that the Plan Commission approve the application subject to input at the public hearing and conditions from reviewing agencies. In making this recommendation, staff recognized the longstanding use of the site as a gas station and noted that the design of the new convenience store was an improvement to the Atwood Avenue corridor. In considering the proposed request to amend the conditions of approval added at the 2006 Plan Commission meeting, the Commission should consider whether the proposal to allow the sale of alcohol at this location will continue to meet the conditional use standards in the Zoning Ordinance.

The applicants' letter of intent indicates that a meeting was held on August 24, 2010 to discuss their desire to sell alcohol at the subject site, and notices to property owners and occupants with 200 feet of the subject site were mailed in advance of this public hearing. Planning staff has received several communications from area residents, which are included in the Commission's materials.

### **Staff Recommendations, Conditions of Approval & General Ordinance Requirements**

Major/Non-Standard Conditions are shaded

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#### **Planning Division Recommendation** (Contact Timothy M. Parks, 261-9632)

If the Plan Commission can find that the conditional use standards can be met, the Planning Division recommends that the Commission **approve** a major alteration to the approved conditional use for the gas station convenience store at 2801 Atwood Avenue to allow the sale of alcoholic beverages, subject to input at the public hearing and the conditions from reviewing agencies that follow below.

**Prior to beginning sales of alcoholic beverages at this site, the applicants are required to receive separate approval of the necessary licenses from the Common Council following a recommendation by the Alcohol License Review Committee.**

The following conditions have been submitted by reviewing agencies:

#### **City Engineering Division** (Contact Janet Dailey, 261-9688)

This agency submitted a response with no conditions of approval for this request.

#### **Traffic Engineering Division** (Contact John Leach, 267-8755)

This agency did not submit comments for this request.

#### **Zoning Administrator** (Contact Pat Anderson, 266-5978)

1. Signage approvals are not granted by the Plan Commission. Signage must be reviewed for compliance with MGO Section 31, Sign Code. Signage permits are issued by the Zoning Section of the Department of Planning and Community and Economic Development.

**Parks Division** (Contact Ray Rutledge, 266-4714)  
This agency did not submit comments for this request.

**Fire Department** (Contact Bill Sullivan, 261-9658)  
This agency submitted a response with no conditions of approval for this request.

**Water Utility** (Contact Dennis Cawley, 261-9243)  
This agency submitted a response with no conditions of approval for this request.

**Metro Transit** (Contact Tim Sobota, 261-4289)  
This agency did not submit comments for this request.

**Police Department** (Contact Frank Chandler, 266-4238)  
This agency did not submit comments for this request.