



**Project Address:** 2801 Atwood Avenue  
**Application Type:** Conditional Use Alteration  
**Legistar File ID #** [31300](#)  
**Prepared By:** Timothy M. Parks, Planning Division  
Report includes comments from other City agencies, as noted.

## Summary

**Applicant & Property Owner:** Shariff Syed, Lake Management, LLC; 2801 Atwood Avenue; Madison.

**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.

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

**Applicable Regulations & Standards:** Table 28D-2 in Section 28.061 of the Zoning Code identifies auto service station and convenience store as a conditional uses in the TSS (Traditional Shopping Street) zoning district. Section 28.183 of the Zoning Code provides the process and standards for the approval of conditional use permits.

**Review Required By:** Plan Commission

**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. 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

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

**Existing Conditions and Land Use:** 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 TSS (Traditional Shopping Street District).

### Surrounding Land Use and Zoning:

North: Madison Kipp Corporation, zoned TE (Traditional Employment District);

South: Single-, two- and multi-family residences, zoned TR-V1 (Traditional Residential–Varied 1 District);

East: Two-family residences along Atwood Avenue, zoned TSS (Traditional Shopping Street District);

West: Neighborhood commercial uses along Atwood Avenue, zoned TSS; single- and two-family residences along north side of Sommers Avenue, zoned TR-V1.

**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.

**Zoning Summary:** Existing TSS (Traditional Shopping Street 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.

**Environmental Corridor Status:** The property is not located within a mapped environmental corridor (Map F7).

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

## Previous Requests

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].

On September 20, 2010, the Plan Commission found that the conditional standards could not be met and placed on file a request for approval of a major alteration to an approved conditional use for the subject site to remove or modify a condition of approval prohibiting the sale of alcohol. The Commission specifically noted that conditional use standard 1 of the 1966 Zoning Code, that the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, or general welfare, and standard 3, that the uses, values and enjoyment of other property in the neighborhood for purposes already established shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use, could not be met.

## Project Description

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 applicant is requesting that this condition of approval be modified to allow the sale of beer on this property. The applicant is separately seeking approval of a Class A Beer license from the Alcohol License Review Committee (ALRC) and Common Council to allow the requested beer sales to proceed. The ALRC hearing is scheduled for September 18, 2013. No other modifications to the site or Plan Commission conditions of approval are being requested at this time.

The conditions of approval listed in the preceding section, including the prohibition on alcohol sales, were requested by the former alder with the support of the Schenk-Atwood-Starkweather-Yahara Neighborhood Association and nearby property owners, and with the agreement of the 2006 applicant and former property owner, Mr. Murthy Polasa.

## Analysis and Conclusion

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 beer at this location will continue to meet the conditional use standards in the Zoning Ordinance. Notices to property owners and occupants with 200 feet of the subject site were mailed in advance of this public hearing.

## Recommendation

### 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 auto service station convenience store at 2801 Atwood Avenue to allow the sale of beer, 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 applicant will be required to receive separate approval of the necessary license(s) from the Common Council following a recommendation by the Alcohol License Review Committee.**

No conditions of approval were submitted by reviewing agencies for this request.