

# PLANNING DIVISION STAFF REPORT

January 10, 2022



PREPARED FOR THE PLAN COMMISSION

**Project Address:** 1824 South Park Street (14<sup>th</sup> Aldermanic District, Ald. Carter)  
**Application Type:** Conditional Use  
**Legistar File ID #:** [67803](#)  
**Prepared By:** Colin Punt, Planning Division  
Report Includes Comments from other City Agencies, as noted  
**Reviewed By:** Kevin Firchow, AICP, Principal Planner

## Summary

**Applicant:** Toby Arteaga; Geovani, LLC; 1004 Fish Hatchery Rd; Madison, WI 53715

**Contact:** Eric Kom; Sketchworks Architecture; 7780 Elmwood Ave #208; Middleton, WI 53562

**Requested Action:** Approval of a Conditional Use to establish an outdoor eating area in a Commercial Corridor - Transitional district at 1824 South Park Street per M.G.O. §28.072(1).

**Proposal Summary:** The applicant seeks approval an outdoor eating area at an existing building.

**Applicable Regulations & Standards:** This proposal is subject to the standards for conditional uses, M.G.O. §28.183(6).

**Review Required By:** Urban Design Commission and Plan Commission

**Summary Recommendation:** The Planning Division recommends that the Plan Commission find that the conditional use standards are met and **approve** the requests to establish an outdoor eating area for a restaurant at 1824 South Park 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:** The subject site is a 26,499 square-foot (0.61-acre) parcel located at the northwest quadrant of the intersection of South Park Street and North Avenue. It is within Aldermanic District 14 (Alder Carter) and the Madison Metropolitan School District.

**Existing Conditions and Land Use:** The site, zoned CC-T (Commercial Corridor - Transitional District), is occupied by a 6,000-square foot one-story warehouse building with office space constructed in 1967.

### Surrounding Land Uses and Zoning:

North: A warehouse building, zoned CC-T (Commercial Corridor - Transitional);

West: A one-story building and storage yard, landbanked by the City of Madison Economic Development Division, zoned CC-T;

South: Across North Avenue, a one-story commercial building zoned CC-T; and

East: Across South Park Street, a two-story multi-tenant commercial building zoned CC-T.

**Adopted Land Use Plan:** The [Comprehensive Plan](#) (2018) recommends CMU (Community Mixed Use) for the site. The [South Madison Neighborhood Plan](#) (2005), does not provide specific land use recommendations for the site. A complete revision to the [South Madison Plan](#) is currently underway, which includes this site.

**Zoning Summary:** The subject property is zoned CC-T (Commercial Corridor - Transitional District):

| Requirements  | Required   | Proposed                        |
|---|--|---------------------------------|
| Front Yard Setback  | 0' or 5'   | Adequate                        |
| Side Yard Setback: Street side yard   | 0' or 5'   | Adequate south street side yard |
| Side Yard Setback: Other cases  | None unless needed for access  | None north side yard            |
| Rear Yard Setback: For corner lots where all abutting property is in a nonresidential zoning district | The required rear yard setback shall be the same as the required side yard setback | None existing                   |
| Maximum Lot Coverage  | 85%  | 89% existing (1)                |
| Maximum Building Height   | 5 stories/ 78'   | 1 story existing building       |

| Site Design                         | Required   | Proposed          |
|-------------------------------------|--|-------------------|
| Number Parking Stalls               | <b>Restaurant-tavern:</b> Minimum 15% of capacity of persons (6)<br>Maximum 40% of capacity of persons (16)<br><b>Food and related goods sales:</b><br>Maximum 1 per 200 sq. ft. floor area (30)<br>(Total 46 maximum) | 33                |
| Accessible Stalls                   | Yes  | 1 (2)             |
| Loading                             | Not required   | None              |
| Number Bike Parking Stalls          | <b>Restaurant-tavern:</b> 5% of capacity of persons (2)<br><b>Food and related goods sales:</b> 1 per 2,000 sq. ft. floor area (3)<br>(Total 5)  | 6 (3)             |
| Landscaping and Screening           | Yes  | Yes (4)(5)(6)(7)  |
| Lighting                            | Yes  | None (9)          |
| Building Forms                      | Not required   | Existing building |
| <b>Other Critical Zoning Items:</b> | Urban Design (UDD 7), Barrier Free (ILHR 69), Utility Easements, Wellhead Protection District (WP-18)  |                   |

*Table Prepared by Jenny Kirchgatter, 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, Analysis, and Conclusion

The applicant is requesting conditional use approval for an outdoor eating area at a grocery store/restaurant that to be housed within an existing building, which is located along the north lot line. The existing building, which is currently used as warehouse and office, is proposed to undergo a total interior demolition and reconstruction into a grocery store with a mezzanine office area and a restaurant with an outdoor eating area. The parking lot and

building exterior of the building will also be updated. The existing parking lot covering the southern half of the lot will be restriped and continued to be used for vehicle parking. The grocery entrance and outdoor eating area are proposed for the east side of the building, facing South Park Street. Plans show twelve tables with two seats each, for a total capacity of twenty-four patrons in the outdoor eating area. The outdoor eating area will have access both to the interior dining area and directly to the parking lot. According to the plans, the seating area will be a raised concrete platform with railings surrounding it and a roof to match the building roof. Proposed hours of operation are 10 a.m. to 8 p.m. seven days per week. If approved, the applicant intends to commence interior construction in January 2022, begin exterior construction in March, and occupy the building in June.

### **Adopted Plan Recommendations**

The [Comprehensive Plan](#) (2018) recommends CMU (Community Mixed Use) for the site. Community Mixed Use areas are a relatively high-intensity mix of residential, retail, office, institutional, and civic uses, generally located adjacent to a major transportation corridor. The [South Madison Neighborhood Plan](#) (2005), does not provide specific land use recommendations for the site, but does identify the site and surrounding area as a “transition area” and recommends the extension of North Avenue west from this location, with an improved intersection with South Park Street. Adopted plans that are in place at the time of application should be considered as part of their review. As a reference, the City is in the process of preparing the [South Madison Plan](#) which includes this site.

### **Conditional Use Standards**

In regards to conditional use approval standards, 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 §28.183(6) M.G.O. are met. Staff advises the Plan Commission that in evaluating the conditional use standards, 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. Outdoor eating areas are often accompanied by light and noise, which are sometimes called out in reference to conditional use approval standard 1, related to the detriment or endangerment of public health, safety, and welfare, and standard 3, regarding impairment or diminishment of uses, values, and enjoyment of other property in the neighborhood. In this case, because of the location of the outdoor eating area along South Park Street, the distance from any residential uses, and the built-up urban characteristic of the surrounding environment, Staff does not anticipate the development will result in negative impacts on surrounding properties and believes that all applicable standards of approval can be found met.

### **Urban Design Commission Review**

This site is within Urban Design District 7 and the Urban Design Commission is also an approving body on this request. At its meeting on December 15, 2021, the Urban Design Commission granted final approval with recommendations to plant additional grasses around the tree islands, remove the faux windows, enhance the plant and garden areas, and use a terra cotta color metal roof and screening element. See Legistar item [67808](#) for more information of the UDC recommendation.

### **Conclusion**

Staff believes that given the surrounding uses, the location of the outdoor eating area away from any residential uses, and the plan recommendations, the Plan Commission can find the applicable conditional use standards of approval to be met and approve the conditional use request. Staff notes that as a conditional use, the Plan

Commission retains “continuing jurisdiction” to review and resolve complaints that may arise on the operation of the conditional use.

At time of report writing, staff is unaware of any public comments.

## Recommendation

### Planning Division Recommendation (Contact Colin Punt, (608) 243-0455)

The Planning Division recommends that the Plan Commission find that the conditional use standards are met and **approve** the requests to establish an outdoor eating area for a restaurant at 1824 South Park 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

### Zoning (Contact Jenny Kirchgatter, (608) 266-4429)

1. Provide a calculation and plan detail for lot coverage with the final submittal. The lot coverage maximum is 85%. Lot coverage is defined as the total area of all buildings, measured at grade, all accessory structures including patios, etc., and all paved areas as a percentage of the total area of the lot, with the following exceptions: sidewalks or paved paths no wider than five (5) feet, pervious pavement, green roofs and decks. If the existing site currently exceeds 85% maximum lot coverage, proposed site improvements may not further increase lot coverage above the maximum.
2. Parking requirements for persons with disabilities must comply with Section 28.141(4)(e). Provide two (2) accessible stalls. At least one of the accessible stalls shall be a van accessible stall. A van accessible stall is a minimum of 8 feet wide with an 8 foot wide striped access aisle. Van parking spaces that are angled shall have access aisles located on the passenger side of the parking space. The access aisles shall extend the full length of the parking spaces that they serve. Show the required signage at the head of the stalls.
3. Submit a bike rack detail.
4. The proposed landscape plan does not correspond with the proposed site plan. Update the civil plan pages to be consistent with each other.
5. It appears that interior parking lot islands are proposed for removal. Provide adequate interior parking lot landscaping per Section 28.142(6). All parking lots with twenty (20) or more parking spaces shall be landscaped in accordance with interior parking lot standards. For changes to a developed site, a minimum of five percent (5%) of the asphalt or concrete area shall be interior planting islands, peninsulas, or landscaped strips.
6. Submit the updated 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.
7. Submit a rooftop plan showing the location of any proposed rooftop mechanical equipment and screening.

All rooftop and ground level mechanical equipment and utilities shall be fully screened from view from any street or residential district per Section 28.142(9)(d).

8. The capacity shall be established for the outdoor eating area. Occupancy is established by the Building Inspection Unit. Contact Building Inspection staff at (608) 266-4551 to help facilitate this process.
9. Verify whether new parking lot or site lighting will be installed. New parking lot lighting must comply with City of Madison General Ordinances Section 10.085 Outdoor Lighting Standards. If parking lot site lighting is provided, submit a lighting photometric plan and fixture cut sheets with the final plan submittal.
10. Per Section 28.186(4)(b), the property owner or operator is required to bring the property into compliance with all elements of the approved site plans by the date established by the Zoning Administrator as part of the site and building plan approval. Work with Zoning staff to establish a final site compliance date.
11. 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.

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

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| <ol style="list-style-type: none"><li>12. This property has been used for auto repair since at least the 1990s and may contain residual contamination. If contamination is encountered, follow all WDNR and DSPS regulations for proper handling and disposal.</li><li>13. Applicant shall provide utility plan showing where sanitary sewer service is located for the property. City records are inconclusive.</li><li>14. Revise plan to show the location of all rain gutter down spout discharge locations. (POLICY)</li></ol> |
|---|
15. Enter into a City / Developer agreement for the required infrastructure improvements. Agreement to be executed prior to sign off. Allow 4-6 weeks to obtain agreement. Contact City Engineering to schedule the development and approval of the plans and the agreement. (MGO 16.23(9)c)
  16. Construct new 5' sidewalk in Sidewalk Easement on Park St. Construct new terrace on Park St.
  17. Construct 5' sidewalk, terrace, curb and gutter & 4' of pavement on North Ave.
  18. Madison Metropolitan Sewerage District (MMSD) charges are due and payable prior to Engineering sign-off, unless otherwise collected with a Developer's / Subdivision Contract. Contact Mark Moder (608-261-9250) to obtain the final MMSD billing a minimum of two (2) working days prior to requesting City Engineering signoff. (MGO 16.23(9)(d)(4))
  19. An Erosion Control Permit is required for this project. See Storm comments for permit specific details and requirements.
  20. A Storm Water Management Report and Storm Water Management Permit is required for this project. See Storm comments for report and permit specific details and requirements.

21. A Storm Water Maintenance Agreement (SWMA) is required for this project. See Storm comments for agreement specific details and requirements.
22. This site appears to disturb over one (1) acre of land and requires a permit from the WDNR for stormwater management and erosion control. The City of Madison has been required by the WDNR to review projects for compliance with NR216 and NR-151 however a separate permit submittal is still required to the WDNR for this work. The City of Madison cannot issue our permit until concurrence is obtained from the WDNR via their NOI or WRAPP permit process. Contact Eric Rortvedt at 273-5612 of the WDNR to discuss this requirement. Information on this permit application is available on line: <http://dnr.wi.gov/Runoff/stormwater/constrformsinfo.htm>.  
The applicant is notified that the City of Madison is an approved agent of the Department of Safety and Professional Services (DSPS) and no separate submittal to this agency or CARPC is required for this project to proceed.
23. Revise the site plan to show all existing public sanitary sewer facilities in the project area as well as the size, invert elevation, and alignment of the proposed service. (POLICY)
24. Revise the plans to show a proposed private internal drainage system on the site. Include the depths and locations of structures and the type of pipe to be used. (POLICY AND MGO 10.29)
25. This project will disturb 20,000 sf or more of land area and require an Erosion Control Plan. Please submit an 11" x 17" copy of an erosion control plan (pdf electronic copy preferred) to Megan Eberhardt (west) at [meberhardt@cityofmadison.com](mailto:meberhardt@cityofmadison.com), or Daniel Olivares (east) at [daolivares@cityofmadison.com](mailto:daolivares@cityofmadison.com), for approval. Demonstrate compliance with Section 37.07 and 37.08 of the Madison General Ordinances regarding permissible soil loss rates. Include Universal Soil Loss Equation (USLE) computations for the construction period with the erosion control plan. Measures shall be implemented in order to maintain a soil loss rate below 5.0 tons per acre per year. The WDNR provided workbook to compute USLE rates can be found online at <https://dnr.wi.gov/topic/stormwater/publications.html>  
This project will require a concrete management plan and a construction dewatering plan as part of the erosion control plan to be reviewed and approved by the City Engineer's Office. If contaminated soil or groundwater conditions exist on or adjacent to this project additional WDNR, Public Health, and/or City Engineering approvals may be required prior to the issuance of the required Erosion Control Permit. (POLICY)  
This project appears to require fire system testing that can result in significant amounts of water to be discharged to the project grade. The Contractor shall coordinate this testing with the erosion control measures and notify City Engineering 608-266-4751 prior to completing the test to document that appropriate measures have been taken to prevent erosion as a result of this testing.  
Complete weekly self-inspection of the erosion control practices and post these inspections to the City of Madison website - as required by Chapter 37 of the Madison General Ordinances.
26. Prior to approval, this project shall comply with Chapter 37 of the Madison General Ordinances regarding stormwater management. Specifically, this development is required to submit a Storm Water Management Permit application, associated permit fee, Stormwater Management Plan, and Storm Water Management Report to City Engineering. The Stormwater Management Permit application can be found on City Engineering's website at <http://www.cityofmadison.com/engineering/Permits.cfm>.  
The Storm Water Management Plan & Report shall include compliance with the following:  
Report: Submit prior to plan sign-off, a stormwater management report stamped by a P.E. registered in the State of Wisconsin.  
Electronic Data Files: Provide electronic copies of any stormwater management modeling or data files

including SLAMM, RECARGA, TR-55, HYDROCAD, Sediment loading calculations, or any other electronic modeling or data files. If calculations are done by hand or are not available electronically, the hand copies or printed output shall be scanned to a PDF file and provided to City Engineering. (POLICY and MGO 37.09(2))

Rate Control: Reduce the peak discharge during the 10 year rain event by 15% compared to existing conditions.

TSS Redevelopment with TMDL: Reduce TSS by 80% off of the proposed development when compared with the existing site.

Volume Control: Provide onsite volumetric control reducing the total volume from the site by 5% compared to existing conditions during the 10 year storm event.

Submit a draft Stormwater Management Maintenance Agreement (SWMA) for review and approval that covers inspection and maintenance requirements for any BMP used to meet stormwater management requirements on this project.

27. Submit, prior to plan sign-off but after all revisions have been completed, a digital CAD file (single file) to the Engineering Division that is to scale and represents final construction with any private storm and sanitary sewer utilities.
28. Submit, prior to plan sign-off but after all revisions have been completed, digital PDF files to the Engineering Division. Email PDF file transmissions are preferred to: [bstanley@cityofmadison.com](mailto:bstanley@cityofmadison.com) (East) or [ttroester@cityofmadison.com](mailto:ttroester@cityofmadison.com) (West).

**City Engineering Division – Mapping Section** (Contact Jeffrey Quamme, (608) 266-4097)

29. City of Madison Engineering is requiring the construction of a new sidewalk within the existing 6' Public Sidewalk Easement along S Park Street. Upon this occurring, the existing Consent to Occupy Agreement allowing improvements within the easement per Document No. 5136150 shall be released by the City of Madison.

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

30. The applicant shall dedicate Right of Way or grant a Public Sidewalk Easement for and be responsible for the construction of a five (5)-foot wide sidewalk, eight (8)-foot terrace, and additional one (1) foot for maintenance along S. Park Street.
31. The applicant shall submit one contiguous plan showing proposed conditions and one contiguous plan showing existing conditions for approval. The plan drawings shall be to engineering scale and include the following, when applicable: existing and proposed property lines; parcel addresses; all easements; vision triangles; 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.
32. 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.

33. 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.
34. All parking facility design shall conform to MGO standards, as set in section 10.08(6).
35. All bicycle parking adjacent pedestrian walkways shall have a 2 foot buffer zone to accommodate irregularly parked bicycles and/or bicycle trailers.
36. The applicant shall provide a clearly defined 5' walkway from the front door to the public Right of Way clear of all obstructions to assist citizens with disabilities, especially those who use a wheel chair or are visually impaired. Obstructions include but are not limited to tree grates, planters, benches, parked vehicle overhang, signage and doors that swing outward into walkway.
37. The applicant shall show the dimensions for the proposed class III driveway including the width of the drive entrance, width of the flares, and width of the curb cut.
38. Secure parking facility. This is usually done with continuous six (6) inch curb, timbers, preformed wheel stops, guardrail erected at a height of eighteen (18) inches or fencing of sufficient strength to act as a vehicle bumper.
39. Applicant shall submit for review a Commercial Delivery Plan. This plan will include times, vehicle size, use of loading zones and all related turning movements.
40. The applicant shall construct sidewalk and curb and gutter improvements to North Avenue according to plans approved by City Engineer.
41. Developer shall provide a recorded copy of any joint driveway ingress/egress and crossing easements and shall be noted on face of plan.

*The Planning Division, Fire Department, Parks Division, Forestry Section, Water Utility, and Metro Transit have reviewed this request and have recommended no conditions of approval*