PLANNING DIVISION STAFF REPORT

November 13, 2023

PREPARED FOR THE PLAN COMMISSION

Project Address: **1129-1133 East Wilson Street** (6th Alder District, Ald. Rummel)

Application Type: Conditional Use

Legistar File ID #: 80214

Prepared By: Colin Punt, Planning Division
Report Includes Comments from other City Agencies, as noted

Reviewed By: Kevin Firchow, AICP, Principal Planner

Summary

Applicant: Benjamin Feifarek; Working Draft Beer Company; 1129 E. Wilson St; Madison, WI 53703

Owner: S&K Investments, Co; 4105 Keewatin Trl; Verona, WI 53593

Requested Action: Approval of a Conditional Use for free-standing vending located within 200 feet of a lot with a residential use at 1129-1133 East Wilson Street per §28.061(1) and §28.151, MGO.

Proposal Summary: The applicant seeks approval of the necessary conditional uses for the operation of a food cart in a brewpub parking lot.

Applicable Regulations & Standards: This proposal is subject to the standards for conditional uses, found in §28.183(6) MGO, and supplemental regulations in §28.151, MGO.

Review Required By: Plan Commission

Summary Recommendation: The Planning Division recommends that the Plan Commission find that the conditional use standards are met and **approve** the requests for a conditional use for free-standing vending at 1129-1133 East Wilson 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 23,232-square foot parcel located on the southeast side of East Wilson Street between South Ingersoll Street and South Few Street. It is within Alder District 6 (Alder Rummel) and the Madison Metropolitan School District.

Existing Conditions and Land Use: The site, zoned TE (Traditional Employment District), is occupied by a one-story 11,020-square foot multi-tenant commercial building constructed in 1954, and surface parking lot.

Surrounding Land Uses and Zoning:

Northwest: Across East Wilson Street, McPike Park and a Wisconsin & Southern RR corridor zoned PR (Parks & Recreation district) and TE;

Southwest: Three-story 76-unit residential building zoned PD (Planned Development district);

Southeast: One- and two-story commercial and mixed-use buildings zoned TSS (Traditional Shopping Street district) and one- and two-unit residential buildings zoned TR-V2 (Traditional Residential-Varied 2 district); and

Northeast: Single-family residences zoned TR-C4 (Traditional Residential-Consistent 4 district).

Adopted Land Use Plan: The Comprehensive Plan (2018) recommends MR (Medium Residential) for the site. The East Rail Corridor Plan (2004) recommends "relatively" high-density residential development for the site. The Marquette-Schenk-Atwood Neighborhood Plan (1994), the Marquette Neighborhood Center Master Plan (2000), and the Williamson Street BUILD II Plan (2004) include no specific land use recommendations for this site.

Zoning Summary: The subject property is zoned TE (Traditional Employment District):

Requirements	Required	Proposed
Lot Area (sq. ft.)	6,000 sq. ft.	23,232 sq. ft.
Lot Width	50'	176'
Front Yard Setback	0' or 5'	Existing front setback
Max. Front Yard Setback: TOD	20'	Existing front setback
Side Yard Setback: Where buildings abut residentially-zoned lots at side lot line.	Minimum side yard required in the adjacent residential district (TR-C4): 5'	Existing side setbacks
Rear Yard Setback	Lesser of 20% lot depth or 20'	Existing rear setback
Maximum Lot Coverage	85%	Existing lot coverage
Minimum Building Height: TOD	2 stories/ 22' measured to building cornice	1 story existing building
Maximum Building Height	5 stories/68'	1 story existing building

Site Design	Required	Proposed
Number Parking Stalls	No minimum required: TOD	14 existing stalls
Electric Vehicle Stalls	Not required	None
Accessible Stalls	Yes	1
Loading	Not required	Existing loading area
Number Bike Parking Stalls	Brewpub: 5% of capacity of persons (5)	Existing bike stalls (2)
Landscaping and Screening	Not required	Existing landscaping (3)
Lighting	Not required	Existing lighting
Building Form and Design	Not required	Existing building

Other Critical Zoning Items	Barrier Free (ILHR 69), Utility Easements, TOD Overlay

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, representing Working Draft Beer Company, a brewpub, intends to operate food carts or food trucks in two locations in the brewpub's parking lot adjacent to an existing outdoor patio seven days a week, as early as 11 a.m. on Fridays through Sundays, and as late as 9 p.m. on all days. The existing patio/outdoor eating area currently closes by 9 p.m. There is currently no amplified music at the patio and no change is requested. The food

trucks/carts would operate in two locations in the brewpub parking lot, one on each side of the existing outdoor eating area, immediately outside the metal fence that encloses the patio.

Adopted Plan Recommendations

The Comprehensive Plan (2018) recommends MR (Medium Residential) for the site. MR areas are may include a variety of relatively intense housing types, including rowhouses, small multifamily buildings, and large multifamily buildings. Small-scale commercial uses can include small establishments providing convenience goods or services primarily to neighborhood residents. The East Rail Corridor Plan (2004) recommends "relatively" high-density residential development for the site. The Marquette-Schenk-Atwood Neighborhood Plan (1994) and the Marquette Neighborhood Center Master Plan (2000) include no specific land use recommendations for this site. The Williamson Street BUILD II Plan (2004) is focused on design guidelines and does not address this request.

Conditional Use Standards

The applicant is requesting approval of a Conditional Use for free-standing vending in a residential zoning district. 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.

The request is for a conditional use for free-standing vending located within 200 feet of a lot with a residential use per §28.061(1), MGO. Free-standing vending, in this case a food cart, can be 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. Staff notes that the food carts will operate during times in which an approved outdoor eating area for the brewpub (a use with that is often accompanied by the same concerns) is already operating in this location. Also in this case, because of the location of the existing outdoor eating area and proposed free-standing vending and the mixed urban characteristic of the surrounding environment, Staff does not anticipate the uses will result in negative impacts on surrounding properties and believes that all applicable standards of approval can be found met, including the supplemental regulations for free-standing vending found in §28.061(1), MGO.

Conclusion

Staff believes that given the location of the free-standing vending, the layout of the property, and the existing uses and conditional use approvals, 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 any of the conditional uses.

At time of report writing, staff has received a letter of support from the Marquette Neighborhood Association expressing support for the request. Said letter is available in the legislative file.

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 for a conditional use for free-standing vending at 1129-1133 East Wilson 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. The free-standing vending operations shall comply with supplemental regulations Section 28.151 *Free-Standing Vending*.

2. Show the location of the approved bicycle stalls on the site plan.

3. Show the location of the existing screening fence adjacent the southeast property line on the site plan. Screening shall be provided along side and rear property boundaries between commercial, mixed-use or industrial districts and residential districts. Screening shall consist of a solid wall, solid fence, or hedge with year-round foliage, between six (6) and eight (8) feet in height.

Fire Department (Contact Matt Hamilton, (608) 266-4457)

4. Maintain egress path from rear exit doors of the building

The Planning Division, Traffic Engineering Division, Engineering Division Mapping Section, Parks Division, Water Utility, Metro Transit, and Parking Utility have reviewed this request and have recommended no conditions of approval.