



Department of Planning & Community & Economic Development

Building Inspection Division

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DATE: June 8 2015

TO: Plan Commission

FROM: Matt Tucker, Zoning Administrator 

SUBJECT: Conditional Use Complaint, Tip-Top Tavern, 601 North Street

On April 24, 2015, City staff received complaints from a citizen, Ms. Kim Kluck, a resident at 2505 Moland Street regarding the approved Conditional Use at the subject property. A copy of the complaint is included with this letter (Attachment #1). The complaint alleges general violations of the approval for the project, which follow:

- Outdoor patio is being used after 10:00 pm closing time (Condition #1),
- A rear door to the bar, between indoor space and outdoor seating area is being left open, creating a noise nuisance.

Zoning Ordinance Continuing Jurisdiction Review Summary

The Plan Commission maintains continuing jurisdiction over approved Conditional Uses. Per Section Sec. 28.183(9)(c), of the Zoning Ordinance, upon written complaint from a citizen, the Plan Commission shall review the request and determine if a reasonable probability exists that the property is in violation of one or more of the conditions of approval. The complaint review and necessary finding that the Plan Commission must make follows:

The Plan Commission shall initially determine whether the complaint indicates a reasonable probability that the subject conditional use is in violation of a condition of approval. If the Plan Commission determines there is a reasonable probability of a violation, it shall conduct a hearing after giving notice as provided in Subsection (4), above.

A copy of Sec. 28.183(9)(c), *Conditional Use, Continuing Jurisdiction*, is attached (Attachment #2).

History and Background, Conditional Use Review and Building Permit Issuance

The Conditional Use request for the project was approved by the Plan Commission on April 28, 2014. Upon completion of final site plan review for this Conditional Use, the facility was issued permits and zoning approval in accordance with the *Conditional Use* and *Site Plan Review* approval. The patio was constructed and the space has been in use seasonally, apparently since last summer. A Conditional Use alteration was approved on August 25th 2014 to allow for a pergola that was

constructed after the fact, built without first obtaining building permits and zoning approvals. Attached are copies of the approval letter, approved site plan and a map of the area identifying the location of the tavern and the complainants' property (Attachment #3).

The letter of intent and testimony from the public hearing reflect an established and agreed-to closing time of 10:00 pm daily for the patio area.

Complaint Review, Inspection Reports, and Additional Information

The complaint alleges after-hours activity in the outdoor eating area and also identified general behavior that disturbs the peace and quiet of the neighborhood. Zoning Inspector Jacob Moskowitz and I visited the site on the evening of Friday, May 1, 2015. Attached is a report of our observations (Attachment #4). In summary, we observed the outdoor area being used after 10:00 pm and we also observed the general ambient noise coming from the outdoor area from a point on the private property. Based upon our observation, a municipal citation was issued for the after-hours operation of the facility. The issuance of the citation addresses our observant that day, and does not relate the broader issue of the outdoor patio area and its relationship and impact on the neighboring property.

The Conditional Use approval includes facts and a condition requiring a 10:00pm closing time for the patio, which was clearly being violated when staff visited the site. The complaint about the door to the tavern being generally left open does point to the relationship between the indoor and outdoor space, but not necessarily related to this approved Conditional Use. If the door was being propped open after the patio closed, those complaints should be handled on a case-by-case basis by the Police Department as "disturbing the peace" matters.

When inspecting the site, particularly from the backyard of the complainants' home and inside the structure at the 2nd level sun porch, audible voices, clinking of glasses, laughter and ambient noise from the patio were clear. One could clearly hear conversations emanating from inside the patio. Because the patio was at about 20% capacity, the general noise we witnessed would most-likely be greatly increased if the patio were full.

Findings and Recommendation

In consideration of the information above, staff is of the opinion that this property is operating in violation of the standards and conditions of approval associated with this approved Conditional Use. Staff recommends the Plan Commission find the complaint and subsequent inspection reflects reasonable probability that the subject Conditional Use is operating in violation of conditions of approval, and schedule this item for a public hearing at a future Plan Commission meeting.

C: Ald. Larry Palm, District #12

Attachments.

COMPLAINT REGARDING VIOLATION OF TIP TOP OUTDOOR PATIO CONDITIONAL USE PERMIT

Pursuant to Madison Ordinance section 28.183(9)(c)(2), I am filing this Complaint about the operation of the Tip Top outdoor patio past 10:00 p.m. on April 17, 2015 and about the noise level emanating from the patio. The facts supporting this Complaint are contained in the Affidavit of Kim M. Kluck, with exhibits, attached hereto.

During the Commission meeting held on April 28, 2014, Tip Top owner/operator Ben Altschul acknowledged that residents and neighbors had made him aware of their noise concerns during a neighborhood meeting, pre-dating the Commission's approval of the conditional use permit. (Affidavit of Kim M. Kluck, Exhibit 1, Transcript, p. 7, lines 10-19).

As demonstrated by the videos and my attached affidavit, the outdoor patio was clearly open hours past the 10:00 p.m. time when it should have been closed. The fact that the Tip Top may not have been providing food or drink service on the patio does not alter the fact that many patrons (10-15 people) were on the patio drinking and making an unacceptable level of noise after 10:00 p.m., even after midnight.

Furthermore, leaving the door from the bar to the patio propped wide open for noise from a live band (amplified) to emanate into the neighborhood defeats the whole purpose of placing restrictions on the hours of operation. The Commission granted the conditional use permit and has an obligation to enforce the limitations on operation of the outdoor patio.

Pursuant to Madison Ordinance section 28.183(9)(c), the Commission has continuing jurisdiction of all conditional uses for resolving complaints against all previously approved conditional uses.

The Commission also has an ongoing obligation to ensure that the conditions imposed are consistent with the standards in Madison Ordinance section 28.183(6) which specifically requires in subsection (a)(3) that the "uses, values and enjoyment of other property in the neighborhood for purposes already established will not be substantially impaired or diminished in any foreseeable manner." Clearly, the operation of the outdoor patio past 10:00 p.m. substantially impaired and diminished my use and enjoyment of my residential property. Without action by the Commission, further disruption to my enjoyment and use of my property is not only foreseeable, it is likely.

My request is that common sense guide the Commission in enforcing the conditional use permit granted to the Tip Top for the outdoor patio. Further, the Commission should impose additional conditions that it deems just, proper and consistent with the standards in Madison Ordinance section 28.183(3)(a). At this time, I am specifically requesting the Commission to order the following:

- After 10:00 p.m., the patio door from the bar is to be closed at all times and patrons will not be allowed in the outdoor patio area after 10:00 p.m.
- After 10:00 p.m., smokers must use the smoking area at the front entry door of the Tip Top

Thank you for your prompt attention to this Complaint.

CITY OF MADISON
Mark Juler
 APR 24 2015

Planning & Community
 & Economic Development

Very Truly Yours,



4/24/15

Kim M. Kluck

2505 Moland Street

Madison, WI 53704

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AFFIDAVIT OF KIM M. KLUCK IN SUPPORT OF COMPLAINT AGAINST TIP TOP FOR

VIOLATIONS OF CONDITIONAL USE PERMIT

1. My name is Kim M. Kluck and I live at 2505 Moland Street, Madison, Wisconsin, and I have lived there continuously since September 1, 2014 when I purchased the home. I am making this affidavit in support of my complaint regarding violations of a conditional use permit by Tip Top.

2. My house is approximately 100 feet from the outdoor patio of the Tip Top, for which this commission granted a conditional use permit on April 28, 2014. On that date, the Commission approved the request for the hours of operation of the outdoor patio to be until 10:00 p.m. on weekdays and weekends.

3. These hours of operation were approved over my objection and my request that the hours be limited due to noise concerns, as expressed to the Commission in the public hearings held on April 28, 2014. My comments/concerns, Ben Altschul's response and Commission members' comments are set forth in the attached transcript which I requested be prepared by a court reporter. (See attached hereto as Exhibit 1, Transcript of Commission Meeting held on April 28, 2014). My comments about noise levels are at p. 3, lines 11-14, p. 5, lines 8-9, and p. 6, lines 3-7.

4. On the evening of April 17, 2015, starting at 7:00 p.m., numerous patrons on the patio could be heard in a continuous fashion, such that it sounded like I had a full restaurant dining room in my back yard. Intermittent loud shouting and abrupt laughter could be heard, all of this noise was clearly heard as far as the back door of my house.

5. At approximately 11:15 p.m., from the inside of my house with windows closed, I could still plainly hear loud talking, shouting and laughter from the outdoor patio. I walked to the outdoor patio and stood outside the fence. Through the fence, I observed between 10 and 15 patrons in the outdoor patio. I recorded the noise level with my cellphone from outside the fence. The back door of the Tip Top was propped wide open and noise from inside the bar could also be heard. The video can be viewed/heard on enclosed flashdrive, Exhibit 2, a true and correct copy of "Video #1."

6. At approximately, 11:18 p.m., patrons remained in the patio, the noise level remained unchanged in the patio and the back door from the bar to the patio remained propped wide open. (Exhibit 2, a true and correct copy of Video #2).

7. At approximately 11:25-11:35 p.m., a live band inside the bar was heard playing, with the back door (and the front door) of the bar wide open such that the band could be heard for over a half a block away. The noise level was acutely loud in my backyard. Patrons remained in the outdoor patio, almost two hours after the hours of operating the outdoor patio should have ceased. (Exhibit 2, a true and correct copy of Videos #3a and 3b).

8. At approximately midnight (12:02 a.m. on April 18, 2014), the loud music could be clearly heard from inside my house. (Exhibit 1, a true and correct copy Video # 4).

9. During this entire time, approximately 11:00 p.m. through 12:02 a.m., Mr. Altschul's car could be observed parked on the street outside the Tip Top.

 4/24/15

Kim M. Kluck
2505 Moland Street
Madison, WI 53704

Subscribed and sworn to before me
this 24th day of April, 2015.



Notary Public
My Commission expires 3.27.2016.

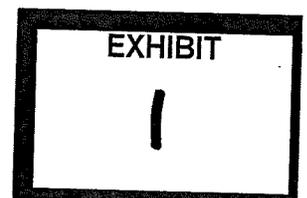
"Consideration of a conditional use to construct an
outdoor eating area for a restaurant-tavern at
601 North Street; 12th Ald. Dist."

Item No. 19, Legistar 33464

TRANSCRIPT OF RECORDED PROCEEDINGS

Madison, Wisconsin
April 28, 2014

Sarah J. Werner, RPR, CRR
Registered Professional Reporter



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THE CHAIRMAN: Okay. We have -- we'd like to dispense of one other, we believe to be short, public hearing item, which is Item No. 19, Legistar 33464, "Consideration of a conditional use to construct an outdoor eating area for a restaurant-tavern at 601 North Street." We have a staff report, a short one.

HEATHER STOUDER: Thank you, Mr. Chair. Again, this is a proposal for a very small outdoor eating area, which maintains a current capacity within the Tip Top Tavern at 601 North Street. Current capacity is 80 people, and that would remain after the addition of the small outdoor eating area. The area is located in an existing area that is sort of an unorganized asphalt parking area, and a benefit to the addition of this outdoor seating area is that the small parking area will be better organized, striped with four stalls, a bicycle parking area that will be new and a new trash enclosure. Staff does not have concerns with the proposal, and we can take any questions following other speakers.

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1 THE CHAIRMAN: Thank you. We have
2 some speakers tonight on this item. The
3 first one is Kim Kluck?

4 UNIDENTIFIED: Kluck.

5 THE CHAIRMAN: Kluck, at
6 801 Kedzie Street, Madison, in opposition.
7 You have three minutes.

8 KIM KLUCK: All right. Thank you.
9 Good evening, members. My name is Kim Kluck,
10 and I live at 801 Kedzie Street. I am not in
11 opposition to the patio; however, I have
12 concerns about the hours of operation that
13 are proposed and about the potential noise
14 level in this residential area. I'm
15 currently in negotiations with the owner of
16 2505 Moland Street to purchase that house
17 from her. The lot line of this property is
18 approximately 50 feet from where the outdoor
19 patio would be. The house is approximately
20 100 feet from where the outdoor patio would
21 be. I do have, Mr. Chairman -- I don't have
22 anything bigger than this, so I apologize, I
23 just want you to see how close the properties
24 are. Basically, the northeast corner of the
25 Tip Top parking lot is going to be next to my

1 southwest corner, if I purchase this house.
2 Mr. Chairman (handing document).
3 I've already paid for the inspection on
4 this house, almost \$500 for the home
5 inspection and for the radon testing. This
6 is a property that I'm very interested in.
7 It's my dream house. I just love it. It's
8 close to a great bar, the Tip Top. I have a
9 huge interest in the Commission's decision on
10 this particular petition. I don't want to
11 walk away from this investment, and at the
12 same time I don't want the value of this
13 house to decrease in the future.

14 Based on my brief acquaintance with Ben,
15 who's the petitioner, the applicant in this
16 case at the bar, I know this about him: I
17 know that he is a genuinely kindhearted
18 person. I know that he is a thoughtful
19 person. I'm at his bar at least once a week.
20 What he has done with this place is amazing.
21 I don't know if any of you know what the
22 Tip Top used to be like. It was pretty much
23 a nuisance. There was -- there were drugs
24 that were being dealt there. There were
25 other shenanigans that involved law

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1 enforcement. So what he has done is amazing,
2 and it's not just the physical renovations.
3 He has brought back to this neighborhood bar
4 a positive energy and a really nice place to
5 be. So I want to recognize that, because I
6 don't like to oppose Ben, and I don't want
7 him to feel like I'm in opposition to what he
8 wants to do here. My concern, as I said, is
9 noise.

10 What I'm here to ask is that this be
11 done with proper consideration for the rights
12 of homeowners in the area and also giving
13 consideration to his desire to grow his
14 business and create this nice space that he's
15 trying --

16 THE CHAIRMAN: Could you wrap up in
17 a minute?

18 KIM KLUCK: Absolutely. What I'm
19 hearing about and what I've seen with this
20 patio is that it will essentially double the
21 size of the bar, and that this outdoor patio
22 will be open until 10:00 p.m. every night of
23 the week. Now, it's dubbed an outdoor dining
24 patio; however, most people dine between 5:00
25 and 7:00 p.m. for dinner. My concern is that

1 between 8:00 and 10:00 p.m., this is an
2 outdoor beer garden. I love beer; I love
3 beer gardens. However, my concern about the
4 size of it is that the more people you get in
5 there, the greater volume you're going to
6 get, and the more potential for noise to
7 disturb neighbors during the workweek. I
8 would propose something like 8 o'clock on
9 weekdays, and I'm a little bit concerned
10 about the size and the number of people that
11 you can fit in there.

12 I've reviewed the ordinance and the
13 standards as far as your authority to impose
14 limitations on hours and noise levels, and I
15 have concern how you would do that with a
16 space like this.

17 THE CHAIRMAN: Thank you. Do we
18 have any questions for the speaker? I don't
19 see any at this time. Thank you.

20 The next speaker is Benjamin Altschul at
21 211 North Dickinson Street. He's the
22 applicant in support. And I assume you'd
23 like to speak?

24 BENJAMIN ALTSCHUL: Yes. Hello.
25 Thank you for your time, and yeah, thank you

1 for speaking out right as well. My interest
2 is making the Eken Park neighborhood as
3 positive as it can be, and it seems like
4 we're on a good track with that. The Tip Top
5 has come a long way, and you know, I just
6 want it to be a really wonderful part of the
7 neighborhood. And I don't want to be -- I
8 certainly don't want to be pushing the
9 envelope.

10 Over the last two months I held an open
11 neighborhood meeting at noon on a Saturday,
12 and the place filled up, and it was actually
13 a really beautiful thing. People were
14 sharing their perspective and a lot of honest
15 opinions. There was a good deal of civil
16 dialogue that is -- that is a rarity. And at
17 the end of the day there were a number of
18 issues that were named, noise being one of
19 them, parking being one of them.

20 The proposal that I've put forward is
21 really my best effort in balancing all the
22 different opinions, because just as there are
23 the voices to have this closed at 8:00, there
24 are the voices that want it open all the
25 time. And you know, I feel like, look, it

1 would be a violation for me to -- it would be
2 against what I want the Tip Top to be if I
3 was like *Hey, let's rock this till 10:00.*
4 But this is where I'm at, and this is why I
5 thought 10:00 was reasonable and respectful.
6 Our kitchen is open seven days a week, and
7 it's open until 10:00 seven days a week, and
8 people do come and eat late, and people would
9 probably come and eat later if we had a
10 late-night menu. That's what people keep
11 telling me. You know, we're right at this
12 place in the neighborhood, you know, Demetral
13 is right across the way, and you know, I
14 think the last kickball games start at 8:30,
15 9 o'clock and run for an hour. And I don't
16 know, the construction itself as well, I'm
17 familiar with kind of what the possible noise
18 will be out of this because my family owns
19 and operates Mickey's Tavern, and we have a
20 patio there that I believe is very much
21 respectful. We don't play music out there.
22 We won't be playing music, unless it's of the
23 acoustic nature at the Tip Top. There's
24 going to be screening fences with vegetation.
25 It's going to be -- you know, I'm going to do

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1 everything that I can to really just make
2 sure that, again, the Tip Top is the best
3 serving place. And you know, if people are
4 being loud out there after 10:00 or at an
5 unreasonable hour, I would be out there with
6 you telling people to be quiet. You know,
7 it's a tavern there. There's -- this is the
8 activity that's involved there. I want to do
9 my best to --

10 THE CHAIRMAN: Can you wrap up your
11 comments in a minute?

12 BENJAMIN ALTSCHUL: Sure. I would
13 like it to be -- I would like it to be open
14 till 10:00. I want to work with the
15 neighbors to make sure that you're feeling
16 respected. I'd like to have a longer
17 conversation. I would actually like to call
18 that the neighborhood meet again after this
19 approval to just talk about this, because I
20 had only received positive encouragement
21 about the idea in total, and so I want to
22 make sure that we are continually balancing
23 this. And so I'm not ready to say 8 o'clock.
24 I think it would disrupt our dinner hours.
25 It's not congruent with our business. And I

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1 can promise you that the Tip Top is going to
2 be respectful, and that I'll do everything
3 that I can. And I don't know what your
4 ability is to limit hours as well, but I
5 would encourage you to, you know, follow the
6 ALRC recommendation and the common council
7 recommendation that's already taken place.

8 THE CHAIRMAN: Thank you.

9 BENJAMIN ALTSCHUL: Thank you.

10 THE CHAIRMAN: Any questions for
11 this speaker? Seeing none, thank you very
12 much.

13 The next registrant is Rebecca Smaglick
14 at 2416 East Johnson Street, in support, I
15 assume not wishing to speak but -- and the
16 next registrant after Rebecca is Ben Smaglick
17 at 2416 East Johnson Street, in support, not
18 wishing to speak. The next speaker is
19 Patrick Hoeth, 302 North Sixth Street in
20 Madison, in support, not wishing to speak.
21 And finally, Alexandra Soglin, 2330 East
22 Dayton Street, in support, not wishing to
23 speak. Is there any questions for these
24 registrants? Okay. If not, any questions
25 for staff? Yes, Commissioner Berger.

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1 MELISSA BERGER: I just wanted to
2 quickly ask staff what are typical hours of
3 establishments like this that are in a
4 neighborhood setting that have these kinds of
5 outdoor areas?

6 HEATHER STOUER: I would say
7 depending on the location, anything from
8 closing at 9:00 to closing at midnight would
9 be in the realm of typical, and I'd ask
10 Matt Tucker if he wants to add anything to
11 that. Good.

12 MELISSA BERGER: Thank you.

13 THE CHAIRMAN: You're done.
14 Thanks. Commissioner Rewey?

15 MICHAEL REWEY: A question to
16 staff. Across the street is the Grieg Club,
17 which we approved for outdoor seating and has
18 no screening. What are their hours of
19 operation?

20 UNIDENTIFIED: I don't recall that
21 we put a restriction on their hours of
22 operation for the club.

23 MICHAEL REWEY: This is where I'm
24 coming from. I didn't think we put
25 restrictions on the Grieg Club, which has no

1 noise screening, but I wanted to clarify
2 that. And that's right across the street.
3 Sorry. I should have asked you ahead of
4 time.

5 THE CHAIRMAN: Alder Palm?

6 LARRY PALM: This is my surprise
7 bonus. It is in my district or in
8 District 12. The Grieg Club was approved
9 without any restrictions, but it is a
10 significantly smaller area, less
11 accommodating, and was sort of designed for
12 the smokers who wanted to hold onto their
13 drinks, so this is a different purpose.

14 UNIDENTIFIED: Thank you.

15 THE CHAIRMAN: Thank you. Any
16 other questions? Seeing none, I'll close the
17 public hearing if I haven't already. Do I
18 have a motion? Commissioner Rewey?

19 MICHAEL REWEY: I move approval.

20 THE CHAIRMAN: Commissioner Rewey
21 recommends approval based with the conditions
22 in the staff report, with a second by
23 Commissioner Resnick. Any discussion? Yes,
24 Commissioner Berger.

25 MELISSA BERGER: I just wanted to

1 put it out there we had discussed this with
2 the last agenda item, but you know, these are
3 conditional uses. They do -- we do have
4 continuing jurisdiction over them. So I
5 would just encourage neighbors, you know, it
6 sounds like the owner is going to be
7 respectful of the neighborhood. But you
8 know, if anything did erupt in the future,
9 you know, there is a process that you could
10 come to the city and, you know, complain and,
11 you know, try to work things out that way as
12 well. So you know, the hours may not be what
13 you were hoping for, but maybe it won't be so
14 bad. Thanks.

15 THE CHAIRMAN: Thank you. Any
16 other questions? We have a motion on the
17 floor to approve. All those in favor?

18 (Aye)

19 THE CHAIRMAN: Opposed? Motion
20 carries.

21 (End)

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"Consideration of a conditional use to construct an outdoor eating area for a restaurant-tavern at 601 North Street; 12th Ald. Dist."

Item No. 19, Legistar 33464

C E R T I F I C A T E

I, SARAH J. WERNER, a Registered Professional Reporter and Notary Public in and for the State of Wisconsin, do hereby certify that as the duly-appointed court reporter, I took in shorthand the recorded proceedings had in the above-entitled matter, and that the attached is a true and correct computer-aided transcription of the recorded proceedings so taken.

Dated this 23rd day of April 2015.

Sarah J. Werner, RPR, CRR

Digitally signed by Sarah J. Werner, RPR, CRR
DN: cn=Sarah J. Werner, RPR, CRR, o=For the Record, Inc., ou,
email=sarahwerner@fortherecordmadison.com, c=US
Date: 2015.04.23 14:24:30 -05'00'

Registered Professional Reporter
Notary Public, State of Wisconsin
My commission expires June 14, 2015

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TRANSCRIPT OF RECORDED PROCEEDINGS 4/28/2014

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1	above-entitled [1] - 14:14	Ben [3] - 4:14, 5:6, 10:16	common [1] - 10:6	dispense [1] - 2:2
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TRANSCRIPT OF RECORDED PROCEEDINGS 4/28/2014

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TRANSCRIPT OF RECORDED PROCEEDINGS 4/28/2014

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City of Madison

Proposed Conditional Use

Location
601 North Street

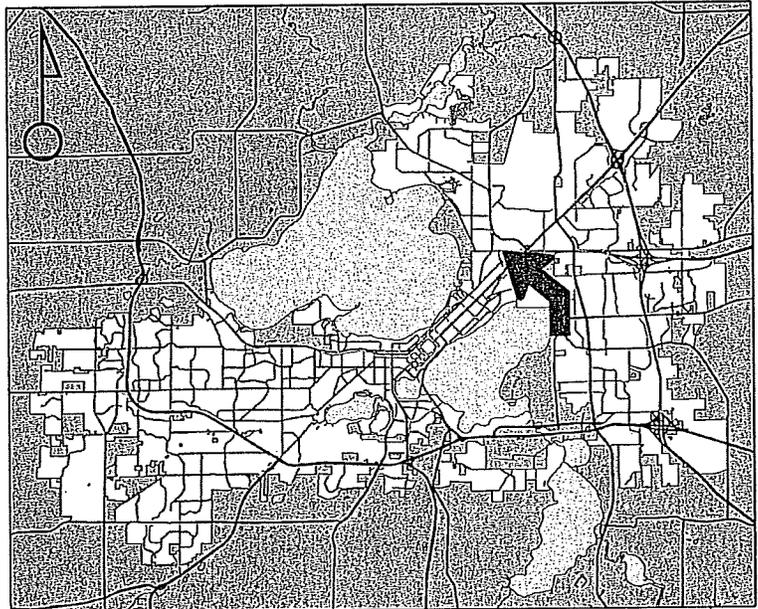
Project Name
Tip Top Tavern Patio

Applicant
Jane Capito/Benjamin Altschul -
Tip Top Tap Inc.

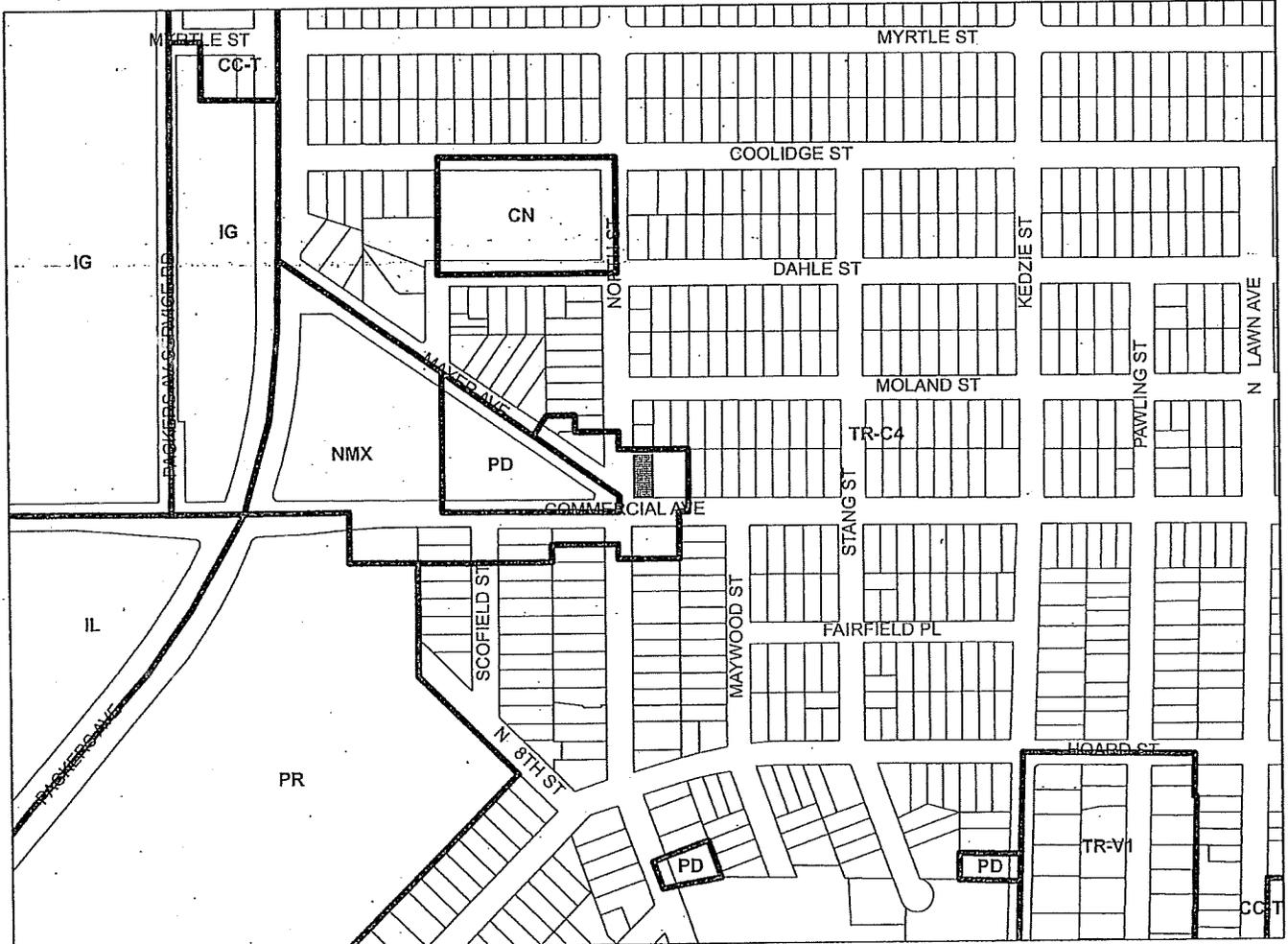
Existing Use
Restaurant-tavern

Proposed Use
Construct outdoor eating area
for restaurant-tavern

Public Hearing Date
Plan Commission
28 April 2014



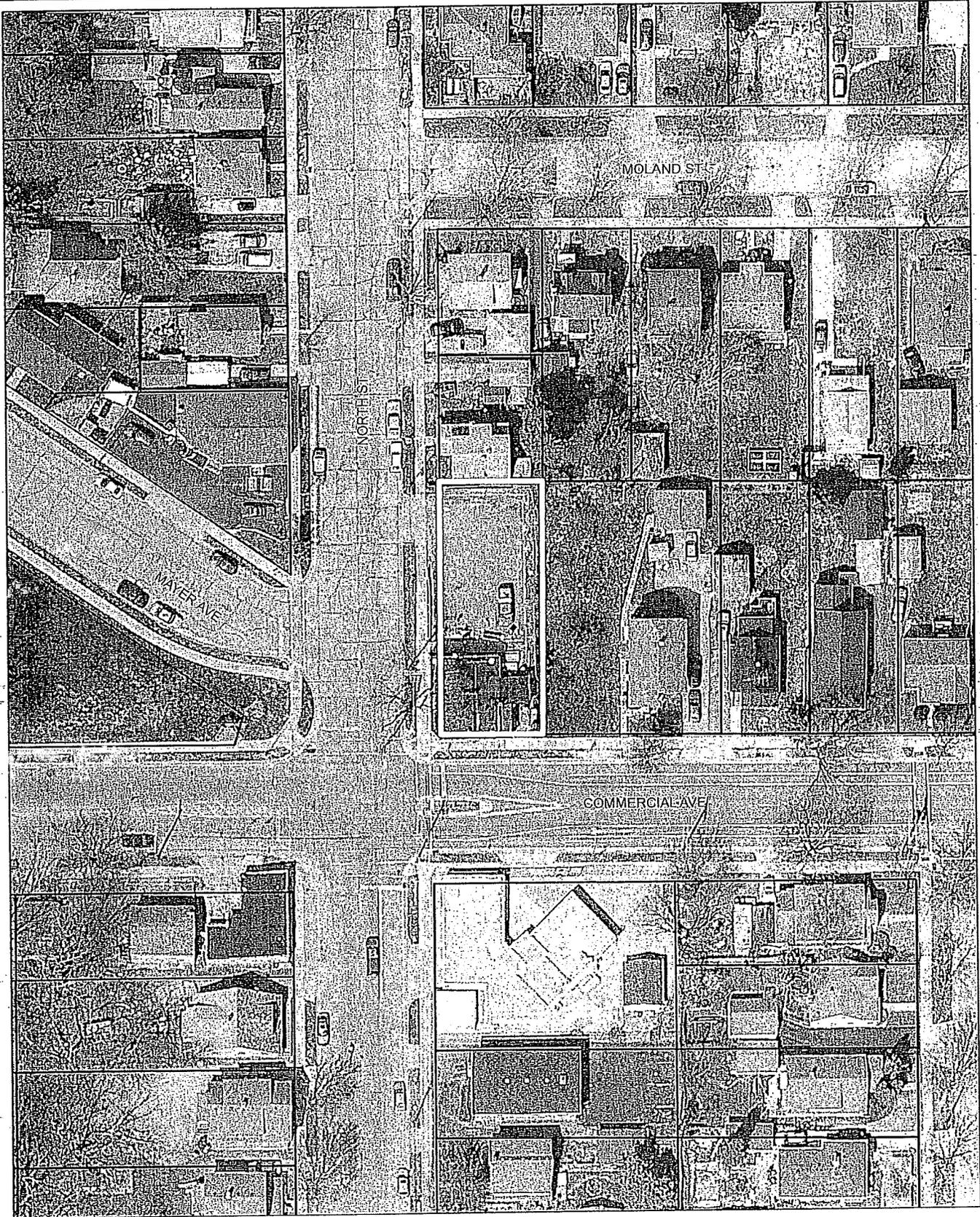
For Questions Contact: Heather Stouder at: 266-5974 or hstouder@cityofmadison.com or City Planning at 266-4635



Scale : 1" = 400'

City of Madison, Planning Division : RPJ : Date : 16 April 2013

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LAND USE APPLICATION

CITY OF MADISON

215 Martin Luther King Jr. Blvd; Room LL-100
PO Box 2985; Madison, Wisconsin 53701-2985
Phone: 608.266.4635 | Facsimile: 608.267.8739

- All Land Use Applications should be filed with the Zoning Administrator at the above address.
- The following information is required for all applications for Plan Commission review except subdivisions or land divisions, which should be filed using the Subdivision Application.
- This form may also be completed online at:
www.cityofmadison.com/developmentcenter/landdevelopment

FOR OFFICE USE ONLY:	
Amt. Paid	\$600 - Receipt No. 152094
Date Received	3/12/14
Received By	JEM
Parcel No.	0810-314-1903-0
Aldermanic District	12 - LARRY PALM
Zoning District	NMX
Special Requirements	OK
Review Required By:	
<input type="checkbox"/> Urban Design Commission	<input checked="" type="checkbox"/> Plan Commission
<input type="checkbox"/> Common Council	<input type="checkbox"/> Other:

Form Effective: February 21, 2013

1. Project Address: 601 North St., Madison, WI, 53704
Project Title (if any): Tip Top Tavern Patio

2. This is an application for (Check all that apply to your Land Use Application):

- Zoning Map Amendment from _____ to _____
- Major Amendment to Approved PD-GDP Zoning Major Amendment to Approved PD-SIP Zoning
- Review of Alteration to Planned Development (By Plan Commission)
- Conditional Use, or Major Alteration to an Approved Conditional Use
- Demolition Permit
- Other Requests: _____

3. Applicant, Agent & Property Owner Information:

Applicant Name: Benjamin Altschul Company: Tip Top Tap Inc.
Street Address: 601 North St City/State: Madison, WI Zip: 53704
Telephone: (608) 209-0961 Fax: () Email: info@thetiptoptavern.com

Project Contact Person: _____ Company: _____
Street Address: _____ City/State: _____ Zip: _____
Telephone: () _____ Fax: () _____ Email: _____

Property Owner (if not applicant): Jane Capito
Street Address: 1348 Seneca St City/State: Madison, WI Zip: 53703

4. Project Information:

Provide a brief description of the project and all proposed uses of the site: The addition of patio space, bike parking and landscaping to the existing parking lot.
Development Schedule: Commencement May 1, 2014 Completion May 7th, 2014

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Tip Top Tavern Patio - Letter of Intent

It is our intent to create a beautiful and functional outdoor space at The Tip Top Tavern. In order to accomplish this goal, the existing parking lot at 601 North St. will be developed to include automobile parking, patio space, bike parking, dumpster placement, neighborhood screening fences and additional greenery/landscaping.

The project team consists of Benjamin Altschul (owner/operator of The Tip Top Tavern) and Jane Capito (property owner of 601 North St.).

The physical work will begin May 1st and the project will be completed by May 7th.

The parking area will measure 2232 sq ft. This will include, one handicapped parking stall, three regular parking stalls and dumpster placement. An 8ft cedar fence will screen the parking area from the neighborhood.

The patio space will measure 1156 sq ft. The patio will be used for outdoor seating during business hours not to exceed 10 pm. The patio will be surrounded by an 8 ft cedar fence.

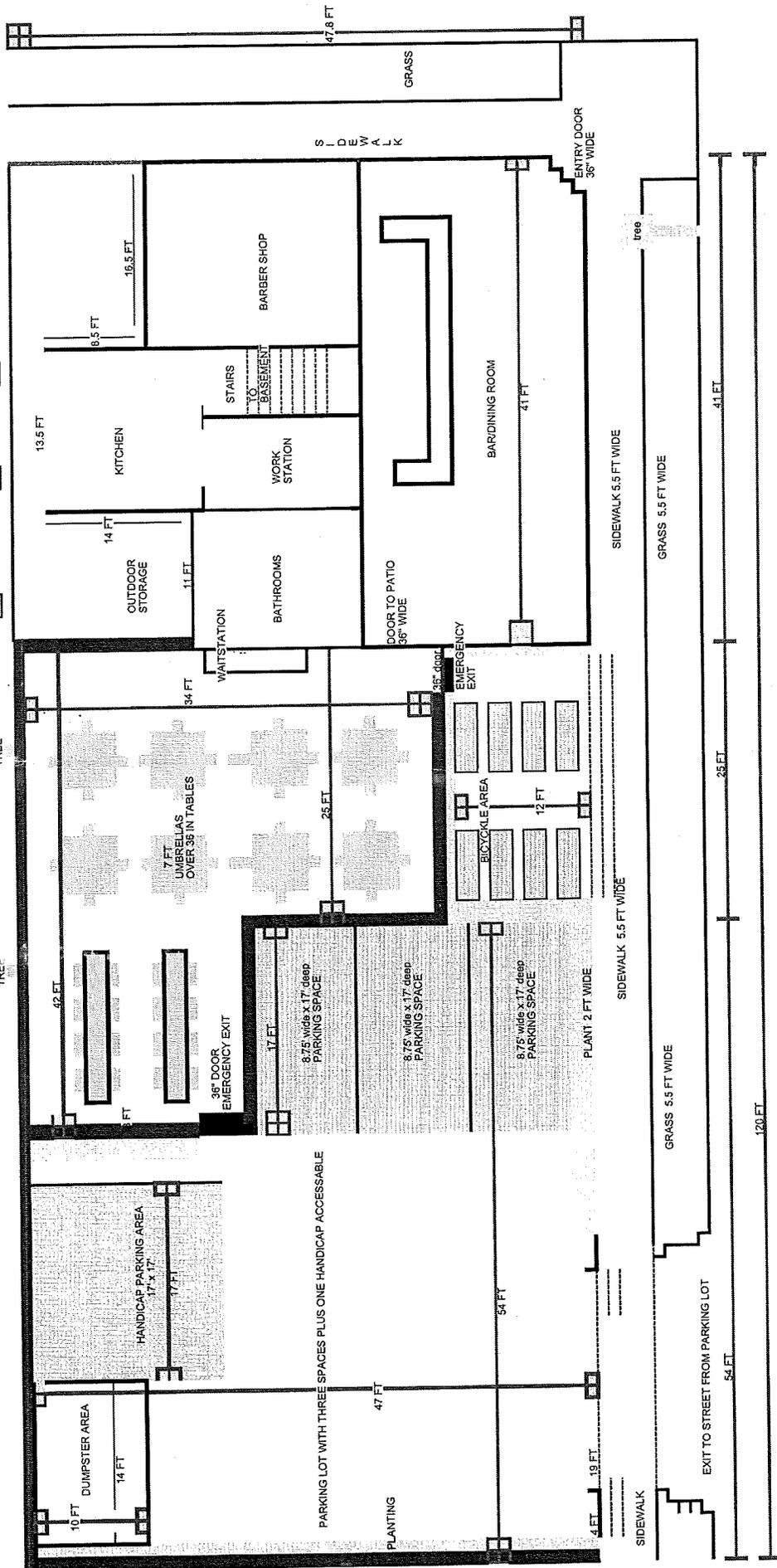
Bike parking will measure 300 sq ft. This space will allow for eight 2ft X 6ft bike parking stalls.

Our hours of operation for The Tip Top Tavern will be Monday through Friday 11:30am – 2 a.m., Saturday and Sunday 8am-2am. The patio will be closed at 10 pm daily.

The estimated project cost is under \$10,000 dollars.

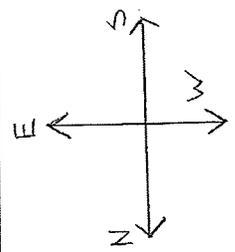
TIP TOP TAVERN - 601 NORTH ST. MADISON, WI 53704

- UMBRELLAS
- TABLES / CHAIRS
- BICYCLE SPACE
- 8 FT CEDAR FENCE
- SIDEWALKS
- GRASS
- LANDSCAPING
- EXTERIOR DOORS
- TREE



← Commercial Ave →

← North St →



1 inch = 8.5 ft

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City of Madison Zoning Ordinance
Conditional Use, Continuing Jurisdiction*

Sec. 28.183(9)(d), Conditional Uses, Scope of Approval, Continuing Jurisdiction

(d) Continuing Jurisdiction.

1. The Plan Commission retains continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. This authority is in addition to the Zoning Administrator's authority under Sec. 28.202.
2. Any citizen, the Zoning Administrator, or other official may file a written complaint with the Plan Commission that one or more conditions of a conditional use permit have not been completed, or are being violated.
3. The Plan Commission shall initially determine whether the complaint indicates a reasonable probability that the subject conditional use is in violation of a condition of approval. If the Plan Commission determines there is a reasonable probability of a violation, it shall conduct a hearing after giving notice as provided in Subsection (4), above.
4. The Plan Commission may, in order to bring the subject conditional use into compliance with the conditions previously imposed by the Plan Commission, modify the existing conditions and impose additional reasonable conditions. If no reasonable modification of the conditional use can be made that are consistent with the standards in Subsection (6), above, the Plan Commission may revoke the conditional use permit and direct the Zoning Administrator and the City Attorney to seek elimination of the subject use.
5. An appeal from a decision of the Plan Commission under this paragraph may be taken to the Common Council as provided by Subsection (5)(b), above.

AA #3



Department of Planning & Community & Economic Development

Planning Division

Katherine Cornwell, Director

Madison Municipal Building, Suite LL-100
215 Martin Luther King, Jr. Boulevard
P.O. Box 2985
Madison, Wisconsin 53701-2985
Phone: (608) 266-4635
Fax (608) 267-8739
www.cityofmadison.com

April 29, 2014

Benjamin Altschul
Tip Top Tap, Inc.
601 North St.
Madison, WI 53704

RE: Approval of a conditional use for an outdoor seating area associated with an existing tavern.

Dear Mr. Altschul:

At its April 28, 2014 meeting, the Plan Commission found the standards met and **approved** your request for a conditional use at 601 North Street, subject to the conditions below. In order to receive final approval of the conditional use, and for any necessary permits to be issued for your project, the following conditions shall be met:

Please contact my office at 266-5974 if you have questions regarding the following 2 items:

1. The use of the outdoor seating area by tavern patrons is not allowable after 10:00 PM.
2. There shall be no outdoor amplified sound associated with the outdoor seating area.

Please contact Janet Schmidt of the City Engineering Division at 261-9688 if you have questions regarding the following 5 items:

3. The site plan shall identify lot and block numbers of recorded Certified Survey Map or Plat.
4. The site plan shall include all lot/ownership lines, existing building locations, proposed building additions, demolitions, parking stalls, driveways, sidewalks (public and/or private), existing and proposed signage, existing and proposed utility locations and landscaping.
5. The site plan shall include a full and complete legal description of the site or property being subjected to this application.
6. The Applicant shall submit, prior to plan sign-off, a digital CAD file (single file) to the Engineering Program Specialist in the Engineering Division (Lori Zenchenko). The digital CAD file shall be to scale and represent final construction. The single CAD file submittal can be either AutoCAD (dwg) Version 2001 or older, MicroStation (dgn) Version J or older, or Universal (dxf) format and contain only the following data, each on a separate layer name/level number:
 - a) Building Footprints
 - b) Internal Walkway Areas
 - c) Internal Site Parking Areas
 - d) Other Misc Impervious Areas (i.e. gravel, crushed stone, bituminous/asphalt, concrete, etc.)
 - e) Right-of-Way lines (public and private)
 - f) All Underlying Lot lines or parcel lines if unplatted

April 29, 2014

Page 2

- g) Lot numbers or the words "unplatted"
- h) Lot/Plat dimensions
- i) Street names

All other levels (contours, elevations, etc) are not to be included with this file submittal.

NOTE: Email file transmissions preferred izenchenko@cityofmadison.com. Include the site address in the subject line of this transmittal. Any changes or additions to the location of the building, sidewalks, parking/pavement during construction will require a new CAD file (POLICY and MGO 37.09(2) & 37.05(4))

7. The applicant shall submit, prior to plan sign-off, digital PDF files to the Engineering Division (Jeff Benedict or Tim Troester). The digital copies shall be to scale, and shall have a scale bar on the plan set (POLICY and MGO 37.09(2)).

PDF submittals shall contain the following information:

- a) Building footprints
- b) Internal walkway areas
- c) Internal site parking areas
- d) Lot lines and right-of-way lines
- e) Street names
- f) Stormwater Management Facilities
- g) Detail drawings associated with Stormwater Mgmt Facilities (including if applicable planting plans)

Please contact Pat Anderson of the Zoning Office at 266-5978 if you have any questions regarding the following 6 items:

8. Meet applicable building/fire codes. The current capacity is set at 80 persons and will not be increased with this new outdoor seating. Capacity shall be established by the Building Inspection Unit. Contact Mike VanErem at 266-4559 to help facilitate this process.
9. Bike parking shall comply with City of Madison General Ordinances Table 28I-3 (General Regulations). Provide 5 bike parking stalls for said uses. Bicycle parking design and location shall comply with MGO Sec. 28.141 (11). A bike parking stall is two feet by six feet with a five-foot access area. Provide detail of bike rack. Provide details on final plans.
10. If outdoor lighting is provided, it must comply with MGO Section 10.085 outdoor lighting standards.
11. An approved parking reduction shall be required. The number of stalls shall be established from the capacity review and can be authorized by an administrative approval in the zoning code.
12. Provide details for refuse enclosure and fence.
13. Provide on final plans a site plan drawn to 1" = 20' scale. Site plan shall include, where applicable, property lines; parcel addresses; pavement markings; signing; building placement; items in the terrace such as signs, surface types such as asphalt, concrete, grass, sidewalk, driveway approaches, parking stall dimensions and drive aisle dimensions.

Please contact Eric Halvorson of Traffic Engineering at 266-6527 if you have any questions regarding the following 6 items:

14. The applicant shall submit one contiguous plan for approval. The plan drawing shall be scaled to 1" = 20' and include the following, when applicable: existing and proposed property lines; parcel

5

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.

15. 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.
16. All parking facility design shall conform to MGO standards, as set in section 10.08(6).

Please contact Bill Sullivan of the Madison Fire Department at 261-9658 if you have any questions about the following 2 items:

17. The Madison Fire Department does not object to this proposal provided the project complies with all applicable fire codes and ordinances.

Specific questions regarding the comments or conditions contained in this letter should be directed to the commenting agency. No demolition or building permits shall be issued until the applicant has met all of the conditions of approval stated in this letter.

Please now follow the procedures listed below for obtaining your building permits:

1. Please revise the plans per the above conditions and file **eight (8)** sets of complete, fully dimensioned, and to-scale plans, along with the appropriate site plan review application and fee pursuant to Section 28.206 of the Zoning Code. Also provide any other documentation requested herein with the Zoning Administrator, Room LL-100, Madison Municipal Building, 215 Martin Luther King, Jr. Boulevard.
2. This letter shall be signed by the applicant to acknowledge the conditions of approval and returned to the Zoning Administrator when requesting building permit approval.
3. No alteration of this proposal shall be permitted unless approved by the Plan Commission, provided, however, the Zoning Administrator may issue permits for minor alterations. This approval shall become null and void one year after the date of the Plan Commission unless the use is commenced, construction is under way, or a valid building permit is issued and construction commenced within six months of the issuance of said building permit.

If you have any questions regarding obtaining the conditional use approval, please contact the Zoning Administrator at 266-4551. If you have any questions or if I may be of any further assistance, please do not hesitate to contact my office at 266-5974.

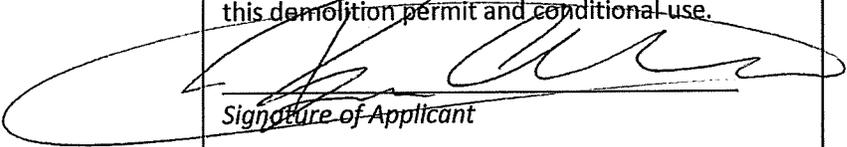
Sincerely,



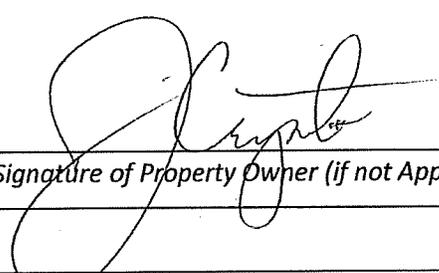
Heather Stouder, AICP
Planner

cc: Janet Schmidt, City Engineering Division
Jeff Quamme, City Engineering Division
Pat Anderson, Asst. Zoning Administrator
Bill Sullivan, Fire Department
Eric Halvorson, Traffic Engineering

I hereby acknowledge that I understand and will comply with the above conditions of approval for this demolition permit and conditional use.

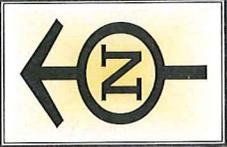
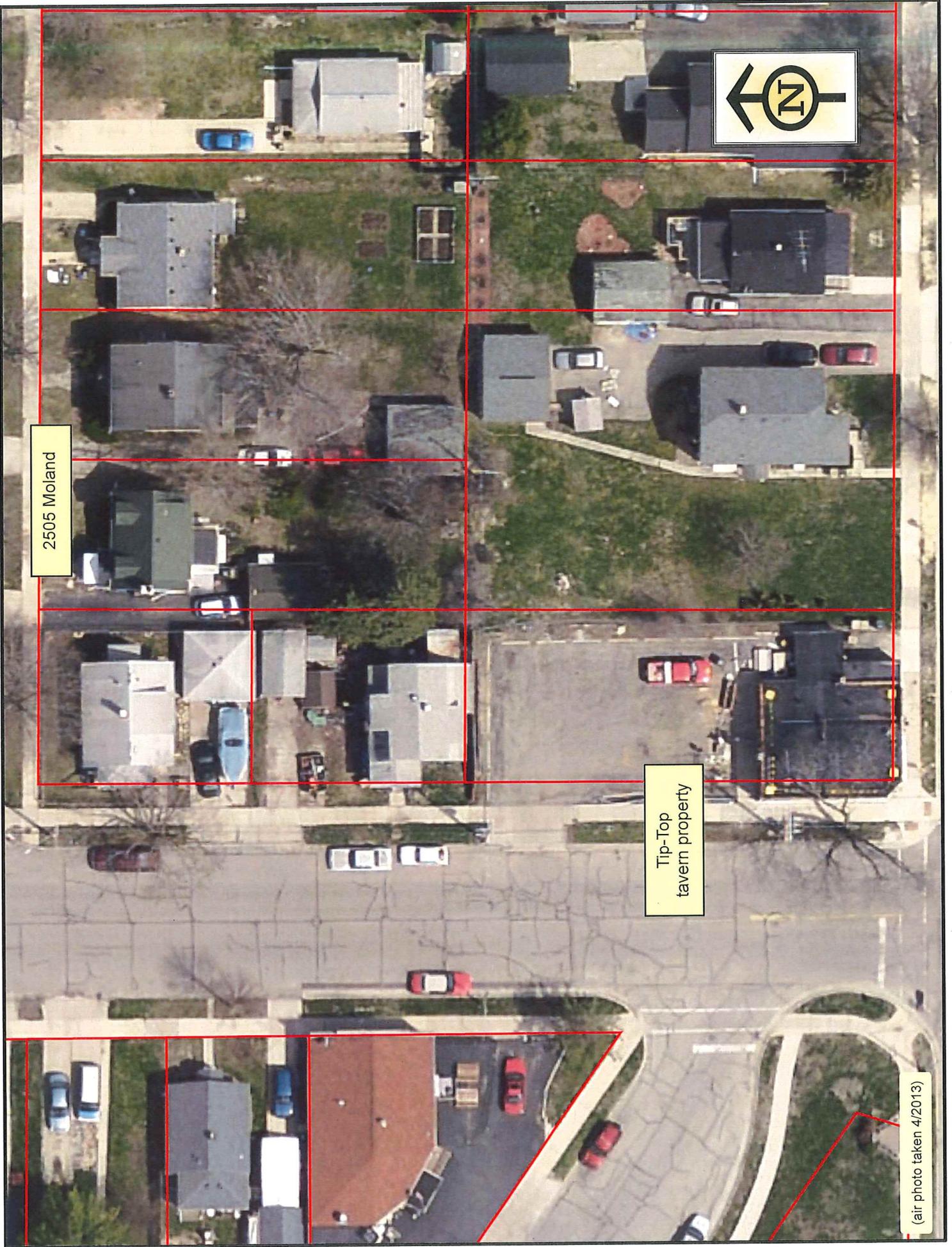


Signature of Applicant



Signature of Property Owner (if not Applicant)

For Official Use Only, Re: Final Plan Routing			
<input checked="" type="checkbox"/>	Planning Div. (H. Stouder)	<input checked="" type="checkbox"/>	Engineering Mapping Sec.
<input checked="" type="checkbox"/>	Zoning Administrator	<input type="checkbox"/>	Parks Division
<input checked="" type="checkbox"/>	City Engineering	<input type="checkbox"/>	Urban Design Commission
<input checked="" type="checkbox"/>	Traffic Engineering	<input type="checkbox"/>	Recycling Coord. (R&R)
<input checked="" type="checkbox"/>	Fire Department	<input type="checkbox"/>	Other



2505 Moland

Tip-Top
tavern property

(air photo taken 4/2013)



City of Madison Site Plan Verification

PROJECT: LNDSPR-2014-00060

Address: 601 North ST

Current Revision #: 0

Submitted by:

Contact: Benjamin Altschul
(608) 209-0961
info@thetiptoptavern.com

Project Type: Permitted Use Site Plan Review

Description: Outdoor seating area for existing tavern.

Status: Agency Reviews in Process

Revision History: 0

Review	Status	Reviewer	Reviewed
City Eng. Review Mapping	Approved	Jeffrey Quamme	Jul 31 2014
Engineering Review Main Office	Approved	Jeff Benedict	May 19 2014
Fire Review	Approved	William Sullivan	May 21 2014
Planning Review	Approved	Heather Stouder	May 23 2014
Traffic Engineering Review	Approved	Eric Halvorson	May 16 2014
Zoning Review	Approved	Patrick Anderson	Jul 22 2014

CITY ENGINEERING MAPPING

Supplement Accepted **Comment Date:** 05/09/2014

Received Copy of plan from Zoning Staff on 7/31/2014

Show all lot lines on all sides of the site on the site plan. Label lengths of all lot lines.

Supplement Accepted **Comment Date:** 05/13/2014

The CAD file requested as a condition of approval is not needed. The outdoor eating is located on an existing impervious area.

ENGINEERING

Note **Comment Date:** 05/19/2014

Less than 4,000 sf disturbed area, no Erosion Control or Storm Water Management Permits required.

FIRE

Note **Comment Date:** 05/21/2014

Per previous approvals, the maximum occupant capacity is 80 persons total. This includes both patrons & employees whether indoors or outdoors.

Contact Building Inspection regarding process required to modify.

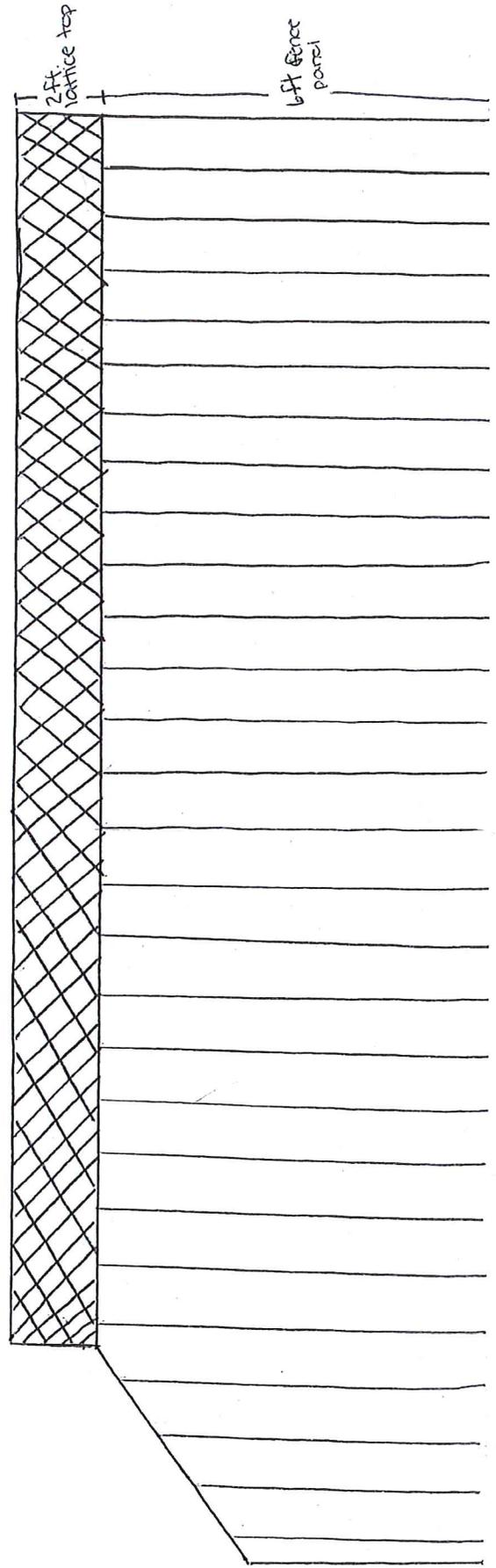
ZONING

Supplement Accepted **Comment Date:** 05/15/2014

Provide details of refuse enclosure.

601 NORTH ST.
North Fence - Example Profile View
of Cedar Fence

* Posts will be grounded 48 inches deep with cement and placed every 8 feet.



Att #4

**CITY OF MADISON
INTERDEPARTMENTAL
CORRESPONDENCE**

Date: May 11, 2015

To: Matt Tucker, Zoning Administrator
From: Jacob Moskowitz, Zoning Code Officer II
Subject: 601 North Street

On May 1st, 2015 at approximately 10:45 PM, Matt Tucker and I inspected the property at 601 North Street based on a complaint that the Tip Top Tavern was operating its patio past the hours approved by the Plan Commission. As part of its conditional use approval, the patio is required to close by 10 PM.

We first walked around the exterior of the patio, which is screened from the street by a six foot privacy fence, and the noise of people talking was clearly audible from the sidewalk. Next, we went to the house of the complainant, who lives adjacent to the property on Moland Street. The noise from the patio continued to be audible in her back yard, and when she took us up to her second story sunroom, the sound was clearly audible from inside the building, and the lights of the patio were clearly visible.

We next entered the bar and walked through to the patio, where there were approximately 12-15 people (roughly 15-20% of capacity) sitting and socializing. Many were holding new drinks, and there was no indication that the patio was closed or in the process of closing. By this point it was at least 45 minutes after the required closing time. Upon observing the inside of the patio, we left the bar without making contact with management.