

## PLANNING DIVISION STAFF REPORT

October 19, 2015



PREPARED FOR THE PLAN COMMISSION

**Project Address:** 1313 Regent Street (District 13 – Ald. Eskrich)  
**Application Type:** Conditional Use  
**Legistar File ID #** [39089](#)  
**Prepared By:** Kevin Firchow, AICP, Planning Division  
**Reviewed By:** Jay Wendt, Principal Planner  
Report Includes Comments from other City Agencies, as noted

### Summary

**Applicant and Contact:** John Bieno, TJK Design Build; 612 West Main Street; Madison WI, 53703

**Property Owner:** FCS Plan B LLC (Rod Ripley); 5625 Cobblestone Lane; Waunakee, WI 53597

**Requested Actions:** The applicant requests approval of a conditional use for an accessory outdoor eating area and parking reduction.

**Proposal Summary:** The applicant proposes to convert a former auto repair facility (Foreign Car Specialists) into a brewpub with an outdoor eating area and a reception hall. While brewpubs and reception halls are permitted uses, outdoor eating areas require conditional use approval. Further, the applicant requests approval of a parking stall reduction, which is also a conditional use. The plans also include the development of a 19-stall parking lot.

**Applicable Regulations & Standards:** This proposal is subject to the standards for Conditional Uses.

**Review Required By:** Plan Commission (PC)

**Summary Recommendation:** The Planning Division recommends that the Plan Commission find that the standards for conditional uses are met and **approve** the conditional use request for an outdoor eating area and parking reduction for 1313 Regent Street, subject to input at the public hearing and the comments and conditions from reviewing agencies.

### Background Information

**Parcel Location:** The subject site is a 35,486 square foot (approximately 0.8 acre) property located on the south side of Regent Street, between South Randall and South Orchard Streets. The site is within the limits of the Madison Metropolitan School District and within Aldermanic District 13 (Ald. Eskrich).

**Existing Conditions and Land Use:** The site includes the existing commercial building with rear fenced in area facing onto Bowen Court.

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

North: Mixed-use and commercial development, zoned PD (Planned Development District); and TSS (Traditional Shopping Street District);

South: Multi-family residential properties zoned TR-V1 (Traditional Residential-Varied 1 District);

East: Multi-tenant commercial building zoned TSS, with residential properties zoned TR-V1, beyond; and

West: Commercial development zoned TSS along Regent Street, with residential uses to the south.

**Adopted Land Use Plan:** The Comprehensive Plan (2006) recommends neighborhood mixed use along Regent Street and medium-density residential along Bowen Court. The Regent Street – South Campus Neighborhood Plan provides the same land use recommendation and provides more detailed design and development recommendations.

**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.

**Zoning Summary:** The property is zoned TSS (Traditional Shopping Street). Please see the separate report of the Zoning Administrator for further information.

## Related Actions

This request was originally submitted in conjunction with a conditional use request to construct a 26-unit apartment building on Bowen Court and a Land Division dividing the subject property into two lots. Due to concerns regarding fire access and plan consistency for the proposed apartment building, the applicant agreed to withdraw those requests at this time and they were placed on file at the Plan Commission's October 5 meeting.

## Project Description, Analysis, and Conclusion

The applicant seeks to convert a former auto-repair facility ("Foreign Car Specialists") into a brewpub with a reception hall. These uses are permitted under the property's TSS (Traditional Shopping Street) zoning. As part of this conversion, there are two conditional use requests before the Plan Commission. The first conditional use request is to establish an outdoor eating area. The second request is for a parking stall reduction to provide less parking than required by the Zoning Code. These requests are subject to the approval standards for conditional uses.

The subject one-story building is nearly 11,000 square feet in area. City Assessor records show the structure was constructed in 1940. The rear of the lot includes a fenced in yard that has been used for parking and auto storage. As part of the renovations, the applicant plans to remove a 1,650 square foot addition on the building's west side. This removal does not require Plan Commission approval of a Demolition Permit. In addition to the depicted building modifications, the applicant proposes to create a 19-stall parking lot at the rear of the site.

### Outdoor Seating Request

The applicant first seeks to establish an outdoor eating area. This area, located at the rear of the structure, has an area of approximately 1,860 square feet. While final capacity has not been approved by City Building Inspection, plans depict 48 total persons seated among 12 tables, based on the most current seating plan provided. (Note, that the letter of intent notes a larger capacity of 58 persons.) The letter of intent states that this area will close at 10:00 pm, nightly. Further, the applicant has agreed to not provide outdoor amplified sound.

The Zoning Code prohibits this area from being utilized as an outdoor “beer garden” for UW football games to its proximity to residential properties. Staff has also recommended a condition that the outdoor eating area not be available to patrons during UW home football games, consistent with other areas that are not approved beer gardens in this area.

At the time of report writing, staff is aware the applicant desires to increase the capacity of the outdoor eating area to 110 persons. A revised seating plan for this capacity has not been provided. Staff is concerned about potential noise impacts from the larger area. As discussed below, the larger requested capacity will also increase the required parking and the amount of “Parking Stall Reduction” requested. At this time, staff supports the smaller capacity as included in the original submitted materials.

### **Parking Reduction Request**

In regards to the second conditional use request, the applicant is seeking a parking reduction between 73-87 stalls based on the brewpub and reception hall space. Staff notes the following conditional use standard that pertains specifically to parking reduction requests:

When applying the above standards to an application for a reduction in off-street parking requirements, the Plan Commission shall consider and give decisive weight to all relevant facts, including but not limited to, the availability and accessibility of alternative parking; impact on adjacent residential neighborhoods; existing or potential shared parking arrangements; number of residential parking permits issued for the area; proximity to transit routes and/or bicycle paths and provision of bicycle racks; the proportion of the total parking required that is represented by the requested reduction; the proportion of the total parking required that is represented by the requested reduction; the proportion of the total parking required that is decreased by Sec. 28.141. The characteristics of the use, including hours of operation and peak parking demand times design and maintenance of off-street parking that will provided; and whether the proposed use is now or a small addition to an existing use.

The minimum parking requirements are based on providing parking for 15% of the approved capacity. This includes the capacity of the brewpub, the outdoor seating area, and the proposed reception hall.

The applicant desires to operate the reception hall in two ways. The first would be with “fixed seating” and have a maximum capacity of 155 persons. This would be used for events such as private parties, weddings, and other events. It is not intended to be allowed simply to create a larger capacity for the brew pub. The second use would be a larger “General Assembly” occupancy with no fixed seats, used only during UW home football games. Under this scenario, the room would have a maximum capacity of 450 persons.

The minimum parking requirement is 15% of the capacity, in persons. Based on the submitted materials:

	<b>Estimated Capacity</b>	<b>Required Parking Stalls</b>
Brewpub	208	31
Outdoor Seating Area	48	7
<b>Sub Total</b>	<b>256</b>	<b>38</b>
Opt 1. Reception Hall – Fixed Seating	155	24
Opt 2. Banquet Facility – General Assembly	450	68

Based on the above assumptions, the brewpub alone, without any additional reception hall facilities would require 38 parking stalls. This number increases with the reception hall. When considering a reception hall with “fixed” seating occupancy of 155 persons, there would be a total parking requirement of 92 stalls. With a larger

“General Assembly” seating capacity, the facility would require 106 total stalls. That is a reduction of 73 stalls (79% of required) and 87 stalls (82% of required), respectively.

Several conditions are recommended to limit anticipated parking impacts on the surrounding neighborhood. These include:

- Parking facilities must be available at all times, and shall not be shut down for any events.
- Limit the hours of operations of the reception hall/room to closing at midnight.
- Maximum capacities to be approved by the Director of Building inspection but shall not exceed:
  - 208 for brewpub (number of available seats, plus staff, plus a reasonable number of people waiting for seats)
  - 48 for patio (chairs & tables-drive capacity number)
  - 155 for reception hall/room when furniture, tables and chairs are present (fixed-seat capacity)
  - 450 for reception hall/room when no tables or chairs present (general assembly capacity)
- The reception hall/room may be used with the general assembly capacity for Wisconsin Badger Home Football games, capacity will be limited to 155 all other days/events (fixed-seat capacity).
- The reception hall space shall not be used as expanded capacity for the brewpub. In no event shall the reception hall be used as a music venue other than music provided in conjunction with private events such as weddings, receptions, private parties (retirement, birthday, holiday, reunion, or other special occasions including private events hosted related to Kohl Center and Camp Randall sporting events and concerts). The doors are required to be closed and locked to reception hall space but for when it is being used for separate events.

The Planning Division believes it is possible to meet the applicable standards, with the conditions recommended in this report. In regards to the outdoor eating area, the restrictions on hours, amplified sound, and capacity limits should reduce impacts on surrounding properties. In regards to the parking reduction requests, the Planning Division acknowledges that this is a large request. Staff notes the relatively central location of this site, in close proximity to the University. Staff anticipates that the proposed use, especially the brewpub, will be in part, a neighborhood serving use, which should limit some vehicle trips that may be expected in other locations. The site is well connected by sidewalk, bus, and nearby bike routes. The plans show 38 bicycle parking stalls will be provided. Staff has recommended several conditions related to use and hours of operation, proposed to minimize parking impacts. Finally staff notes that the applicant has made efforts to revise the plans and the most current version includes 19 on-site stalls, six (6) more than previously provided. Area exists to physically expand this lot, should that be found necessary at a future time.

At the time of report writing, staff was not aware of objections to this proposal. Staff notes that the Plan Commission retains continuing jurisdiction on both conditional use requests. Should issues arise, concerns raised, or conditions of approval fail to be met, this item could return to the Plan Commission for further consideration.

## Recommendation

### Planning Division Recommendation (Contact Kevin Firchow, 267-1150)

The Planning Division recommends that the Plan Commission find that the standards for conditional uses are met and **approve** the conditional use request for an outdoor eating area and parking reduction for 1313 Regent Street, subject to input at the public hearing and the comments and conditions from reviewing agencies.

**- Recommended Agency Comments are included in the Attached Report –**



**Project Address:** 1313 Regent Street

**Application Type:** Land Use

**Legistar File ID#** 39089

**Requested Action:** The applicant requests conditional use approval for an outdoor eating area and a parking reduction.

**Proposal Summary:** The applicant proposes to convert a former auto repair facility (Foreign Car Specialists) into a brewpub with an outdoor eating area and a reception hall. While brewpubs and reception halls are permitted uses, outdoor eating areas require conditional use approval. Further, the applicant requests approval of a parking stall reduction, which is also a conditional use.

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**-Please See the PLANNING DIVISION STAFF REPORT for More Information on this Request -**

## Recommended Agency Comments and Conditions

Major/Non-Standard Conditions are Shaded

### Planning Review (Contact Kevin Firchow (608) 267-1150)

1. That there shall be no outdoor amplified sound in the outdoor eating area.
2. That the outdoor eating area shall close at 10:00 pm, nightly.
3. That the outdoor seating area shall not be available of use during regular season Wisconsin Badger home football games.
4. That the parking facilities must be available at all times, and shall not be shut down for any events.
5. That the reception hall/room shall close at midnight.
6. That maximum capacities shall be approved by the Director of Building inspection but shall not exceed: (a) 208 for brewpub (number of available seats, plus staff, plus a reasonable number of people waiting for seats); (b) 48 for outdoor seating area;(c) 155 for reception hall/room when furniture, tables and chairs are present (fixed for reception hall/room when no tables or chairs present (general assembly capacity)

An alteration to this conditional use shall be required prior to granting a higher capacity.

7. That the reception hall/room may be used with the general assembly capacity for Wisconsin Badger Home Football games. Capacity will be limited to 155 all other days/events (fixed-seat capacity).
8. That to minimize parking impacts, the reception hall space shall not be used as expanded capacity for the brewpub. In no event shall the reception hall be used as a music venue other than music provided in conjunction with private events such as weddings, receptions, private parties (retirement, birthday, holiday, reunion, or other special occasions including private events hosted related to Kohl Center and Camp Randall sporting events and concerts). The doors are required to be closed and locked to reception hall space but for when it is being used for separate events.

**Engineering Review Main Office (Contact Timothy Troester, (608) 267-1995)**

9. 3.12 The Applicant shall replace all sidewalk and curb and gutter which abuts the property which is damaged by the construction or any sidewalk and curb and gutter which the City Engineer determines needs to be replaced because it is not at a desirable grade regardless of whether the condition existed prior to beginning construction. (POLICY)
10. 3.16 All work in the public right-of-way shall be performed by a City licensed contractor. (MGO 16.23(9)(c)5 and MGO 23.01)
11. 3.19 All damage to the pavement on Regent Street and Bowen Court, adjacent to this development shall be restored in accordance with the City of Madison's Pavement Patching Criteria. For additional information please see the following link: <http://www.cityofmadison.com/engineering/patchingCriteria.cfm> (POLICY)
12. 4.0 This project falls in the area subject to increased erosion control enforcement as authorized by the fact that it is in the ROCK RIVER TMDL ZONE and by Resolution 14-00043 passed by the City of Madison Common Council on 1/21/2014. You will be expected to meet a higher standard of erosion control than the minimum standards set by the WDNR.
13. 4.3 The plan set shall be revised to show a proposed private internal drainage system on the site. This information shall include the depths and locations of structures and the type of pipe to be used. POLICY AND MGO 10.29
14. 4.4 The applicant shall show storm water "overflow" paths that will safely route runoff when the storm sewer is at capacity. (POLICY)
15. 4.5 The applicant shall demonstrate compliance with Section 37.07 and 37.08 of the Madison General Ordinances regarding permissible soil loss rates. The erosion control plan shall include Universal Soil Loss Equation (USLE) computations for the construction period. Measures shall be implemented in order to maintain a soil loss rate below 5.0 tons per acre per year.
16. 4.6 For Commercial sites < 1 acre in disturbance the City of Madison is an approved agent of the Department of Commerce and WDNR. As this project is on a site with disturbance area less than one (1) acres, and contains a commercial building, the City of Madison is authorized to review infiltration, stormwater management, and erosion control on behalf of the Department of Commerce. No separate submittal to Commerce or the WDNR is required. (NOTIFICATION)
17. 4.9g Complete an erosion control plan and 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.

18. 4.13 The Applicant shall submit, prior to plan sign-off, a digital CAD file (single file) to the Engineering Division (storm/sanitary section). The digital CAD file shall be to scale and represent final construction. The CAD file shall be in a designated coordinate system (preferably Dane County WISCRS, US Ft). The single CAD file submittal can be either AutoCAD (dwg) Version 2013 or older, MicroStation (dgn) V8i Select Series 3 or older, or Universal (dxf) format and shall contain the 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 Miscellaneous Impervious Areas (i.e. gravel, crushed stone, bituminous/asphalt, concrete, etc.)
  - e) Right-of-Way lines (public and private)
  - f) Plat name and lot lines (metes & bounds parcel lines if unplatted)
  - g) Platted lot numbers (noted "unplatted lands" if not platted)
  - h) Lot/Plat property dimensions
  - i) Street names
  - j) Private on-site sanitary sewer utilities (including connections to public sanitary)
  - k) Private on-site storm sewer utilities (including connections the public storm)

All other levels (contours, elevations, etc) are not to be included with this file submittal. THE CAD FILE WILL ONLY BE REQUIRED PRIOR TO FINAL PLAN REVIEW SO THAT MULTIPLE FILES DO NOT NEED TO BE SUPPLIED OR REVIEWED. the project site address in the email subject line. Any changes or additions to the location of the building, private utilities, sidewalks, parking/pavement during construction will require a new CAD file transmittal.

19. 4.14 The applicant shall submit, prior to plan sign-off, digital PDF files to the Engineering Division (email to Tim Troester at [ttroester@cityofmadison.com](mailto:ttroester@cityofmadison.com)). 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) Other Miscellaneous Impervious Areas (i.e. gravel, crushed stone, bituminous/asphalt, concrete, etc.)
  - e) Right-of-Way lines (public and private)
  - f) Plat name and lot lines (metes & bounds parcel lines if unplatted)
  - g) Platted lot numbers (noted "unplatted lands" if not platted)
  - h) Lot/Plat property dimensions
  - i) Street names
  - j) Stormwater Management Facilities
  - k) Detail drawings associated with Stormwater Management Facilities (including if applicable planting plans).
20. 6.2 All outstanding 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))
21. 6.5 The site plan shall be revised 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)

22. 6.6 This project appears to have proposed uses which could require sanitary sewer demand charges or monitoring of the discharge of sanitary sewerage. The applicant shall install a monitoring manhole on the exterior of the building in compliance with City of Madison Engineering criteria. Please contact Tim Troester 608-267-1195 with any questions regarding this requirement. The recommended location of the monitoring manhole would be on the west side of the building and not over the City sanitary sewer main (located under the sidewalk).

**Traffic Engineering Review (Contact Eric Halvorson, (608) 266-6527)**

23. The agency reviewed this request and has recommended no conditions or approval.

**Zoning Review (Contact Jenny Kirchgatter, (608) 266-4429)**

24. Meet applicable building/fire codes. The outdoor capacity shall be established. Occupancy is established by the Building Inspection Unit. Contact Building Inspection Plan Reviewer Mike VanErem at (608) 266-4559 to help facilitate this process. Submit a plan for the outdoor eating area showing the layout of tables and chairs.
25. Vehicle and bicycle parking requirements are based on the capacity of the brewpub, reception hall, and outdoor patio spaces. Submit the capacity of the brewpub, reception hall, and outdoor patio spaces with the final plan submittal to establish the vehicle and bicycle minimum parking requirements.
26. Provide a minimum of 38 bicycle parking stalls in a safe and convenient location on an impervious surface to be shown on the final plan. Clearly label and dimension the bicycle stalls and required access area. NOTE: A bike-parking stall is two feet by six feet with a five-foot access area.
27. Screening shall be provided along side and rear property boundaries between commercial/ mixed-use 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. Show the district boundary screening adjacent the east and west property lines abutting the residentially zoned properties on the final plans and provide a detail of the screening.
28. A refuse disposal area shall be provided. The refuse enclosure shall be screened on four (4) sides (including a gate for access) by a solid, commercial-grade wood fence, wall, or equivalent material with a minimum height of six (6) feet and not greater than eight (8) feet. Submit a detail of the trash enclosure.
29. Submit a rooftop plan with the final plans. All rooftop and ground level mechanical equipment and utilities shall be fully screened from view. No rooftop or ground-level mechanical equipment is shown on the submitted plans. If such equipment is proposed, it must be screened per Sec. 28.060(2) (e) & (f).
30. Submit a landscape plan and landscape worksheet stamped by the registered landscape architect and a City of Madison landscape worksheet. Per section 28.142(3), landscape plans for zoning lots greater than ten thousand (10,000) square feet in size must be prepared and stamped by a registered landscape architect.
31. Submit a calculation and detail plan page showing that the project meets the lot coverage requirement. The maximum lot coverage is 85%. Lot coverage is the total area of all buildings and paved areas as a percentage of the total lot area, with the exceptions of sidewalks or paved paths no wider than five (5) feet, pervious pavement, green roofs and decks.
32. 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 prior to sign installations.

**Fire Review (Contact William Sullivan, (608) 261-9658)**



33. Coordinate and post building address with City Engineering in accordance with Madison General Ordinances and the International Fire Code.

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

**Metro Review (Contact Timothy Sobota, (608) 261-4289)**

35. The agency reviewed this request and has recommended no conditions or approval.

**City Eng. Review Mapping (Contact Jeffrey Quamme, (608) 266-4097)**

36. The CSM land division has been withdrawn, therefore a CSM is not required.

37. The site plan indicates a private storm sewer along the east side of this property that serves lands within this site and lands to the east. A reciprocal storm sewer easement/agreement between all of the adjacent properties shall be drafted, executed and recorded prior to building permit issuance and the location of the easement and recording information of the document shall be shown and noted on the site plan.

38. There are overhead utilities along the west side of the site without an easement of record. It is recommended the owner grant an easement to MG&E for these facilities.