



PREPARED FOR THE PLAN COMMISSION

**Project Address:** 1313 Regent Street and 7 South Randall Avenue (District 13 – Ald. Eskrich)  
**Application Type:** Conditional Use  
**Legistar File ID #** [42307](#)  
**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 re-approval of a conditional use parking reduction and conditional use alterations for site and operational modifications.

**Proposal Summary:** The applicant proposes the following modifications: 1) Re-approval of an 88-stall parking reduction; 2) Construct an outdoor recreation area (two sand volleyball courts); 3) Incorporate an additional lot to the site and construct eight (8) additional parking stalls. 4) Increase the capacity of the outdoor eating area from 58 persons to 82 persons; 5) Modify of the layout of the outdoor eating area to add an outdoor bar; and 6) Re-approve the Plan Commission-level parking stall reduction for the site.

**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 a modified outdoor eating area, parking reduction, and other modifications including the establishment of an outdoor recreation area for 1313 Regent Street and 7 South Randall Avenue. This recommendation is subject to input at the public hearing and the comments and conditions from reviewing agencies.

## Background Information

**Parcel Location:** The proposed project site consists of two properties. 1313 Regent Street is 35,486 square foot (approximately 0.8 acre) property located on the south side of Regent Street, between South Randall and South Orchard Streets. 7 South Randall Avenue is an abutting 4,004 square foot property. Both subject properties are within the limits of the Madison Metropolitan School District and within Aldermanic District 13 (Ald. Eskrich).

**Existing Conditions and Land Use:** 1313 Regent Street includes an existing commercial building that is currently under renovation for its conversion from an auto repair facility into a brew pub and banquet facility. 7 South Randall Avenue is a paved property, currently utilized for parking and automobile storage purposes.

**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 development 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).

Requirements	Required	Proposed
Front Yard Setback	None	Existing building
Side Yard Setback: Where building abut residentially-zoned lots at side lot line.	Minimum side yard required in the adjacent residential district: 5'	Existing building
Rear Yard Setback	20'	Existing building
Maximum Lot Coverage	85%	Less than 85%
Maximum Building Height	3 stories/ 40'	1 story
Number Parking Stalls	Restaurant-tavern: 15% of capacity of persons (764 persons) 115 stalls	27
Accessible Stalls	Yes	2
Loading	None	One (10' x 35')
Number Bike Parking Stalls	Restaurant-tavern: 5% of capacity of persons (764 persons) 38 stalls	38
Landscaping and Screening	Yes	Yes
Lighting	Yes	Yes
Building Forms	No	Existing building
<b>Other Critical Zoning Items</b>	Utility Easements, Wellhead Protection District	

*Table Prepared by Jenny Kirchgatter, Assistant Zoning Administrator*

**Previous Approvals**

On October 15, 2015, the Plan Commission approved conditional uses for an 88-stall parking reduction and an outdoor eating area as part of the applicant’s plans to convert a former auto repair facility (Foreign Car Specialists) into a brewpub with a reception hall. That proposal was approved with a 58-person outdoor capacity and had a 19-stall parking lot and did not include the outdoor volleyball courts proposed with this application. The approval letter for that request is included within the Plan Commission packet.

## Project Description, Analysis, and Conclusion

The applicant seeks approval of a revised parking-reduction request and several site and operational modifications to an approved conditional use site. These requests are subject to the approval standards for conditional uses.

The specific modifications proposed with this application include:

- **Proposed Sand Volleyball Courts.** The applicant first requests approval of an accessory outdoor recreation area consisting of two sand volleyball courts in an area previously approved as a landscaped yard. Based on the submitted plans, four trees near Bowen Court (two maples, one locust, and one ash) would be removed to accommodate construction of the courts. A six-foot tall wooden fence is proposed along much of the site's perimeter. (See applicant's supplemental exhibit). Plans show the interior landscaping that was previously required along the edge of the outdoor patio would be reduced in size and reconfigured. Lighting details show one additional 20 foot-pole will be added between the volleyball courts.

The Planning Division believes that additional fence height, up to eight (8) feet along the eastern property edge could lessen some of the impacts on the abutting residential properties. Staff also has concerns regarding having a six foot fence directly abutting Bowen Court. In discussions with the applicant, staff understands that if the interior landscaping was relocated, the courts could shift to the north, allowing a planting area between the right-of-way and the fence. If approved, staff recommend this change be incorporated into plans submitted for final sign-off.

Other supporting details regarding the net and court construction details were still under consideration and not available at the time of report writing. The applicant anticipates that the court area will be cut into the ground and that sand will be set upon a landscape fabric. A plastic edge may be applied in order to retain sand. Temporary netting will be seasonally installed and is anticipated to be attached to the fence edge and the light pole. Staff suggests that if supports are attached to the fence, they should be able to be removed along with the netting. If approved, the Planning Division recommends such details are provided for final staff approval.

From an operations standpoint, the applicant proposes to operate the courts from 5:30 pm to 10:30 pm weeknights and from Noon-10:30 pm Weekends between May and October. The letter of intent specifies that the last game will end at 10:00 pm and that clean-up would occur until 10:30 pm. No extra speakers or sound producing devices are going to be added to the volleyball courts. The hours of operation and proposed operating conditions are generally consistent with other sand volleyball requests. While those hours are typical for other sand volley ball courts, the Planning Division notes that this site is in close proximity to residential units. At a minimum, staff would recommend a condition that all players leave the court promptly at 10:00 pm and that the court lighting be turned off by 10:15 pm. The Plan Commission may wish to consider further hours restrictions based on their review and any comments raised at the public hearing.

- **Expanding Parking onto 7 South Randall Avenue Site.** The applicant also proposes to convert 7 South Randall Avenue into an eight (8) stall parking lot, to serve the development. The site will be cross-connected to the parking lot on the 1313 Regent Street property. Currently this property is paved and has been used for vehicle storage and parking.

- Increase Outdoor Eating Area Capacity.** The outdoor eating area behind the building was previously approved with a capacity of 58 persons. As part of this application, the applicant seeks to reconfigure the area and increase the outdoor capacity to 82 persons. Previous conditions of approval established a closing time of 10:00 pm. This area was also approved with 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. While the applicant previously sought a capacity of 110, a smaller capacity was approved based on limiting potential noise conflicts with neighboring residential properties and consideration of the capacity’s impacts on parking requirements. As discussed in more detail below, the expanded parking area would allow the capacity to increase without further increasing the required number of parking stalls.
- Modify Layout of the Outdoor Eating Area.** The applicant proposes to add an outdoor bar to the outdoor eating area.
- Parking Reduction.** Like the parking reduction approved in October 2015, this reduction is again for 88-stalls. A new conditional use approval is required as several factors have changed. As the underlying parking requirement is based on capacity, the new proposed capacity would increase the required parking. The proposed 8-stall lo, however, increases the supply: Details are noted below:

	<b>2015 Approved Capacity</b>	<b>2016 Proposed Capacity</b>
Brew Pub	208 persons	208 persons
Banquet Facility	155 fixed-seat capacity 450 general assembly capacity	155 fixed-seat capacity 450 general assembly capacity
Outdoor Dining Patio	58 current capacity	82 proposed capacity
Volleyball Courts	--	24 persons
Total Capacity	716 total capacity	764 total capacity
Required Parking Stalls	107	115
Provided Parking Stalls	19	27
Amount of Reduction	88 parking stalls (82% of Required)	88 parking stalls (77% of Required)

Staff notes the following conditional use standard 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.

Like with the 2015 application, the Planning Division acknowledges that this is a large parking reduction request. As noted in the previous review this is a centrally located property, sited in close proximity to the University. Staff anticipates that the proposed use 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.

Copies of on-street parking information are again provided for the Plan Commission’s consideration. Staff had previously noted that the approved undeveloped yard area could possibly be converted to parking should it be determined additional on-site parking is necessary to meet the conditional use standards. This could still occur, but would likely mean the loss of one or both proposed volleyball courts.

The Planning Division notes that the letter of intent also lists different hours of operation for the banquet facility than what was approved in October 2015. No further information on that request is included in the application materials and staff continues to recommend the previously approved condition, as previously discussed between the applicant, staff, the Alderperson, and approved by the Plan Commission.

In conclusion, in order to approve this request the Plan Commission will need to find the proposed modifications meet all of the conditional use approval standards. Among the proposed alterations, the Planning Division anticipates that the introduction of two volleyball courts, the capacity increase for the outdoor seating area, and the parking reduction could potentially have the most impacts on surrounding properties. If well-managed, the Planning Division believes that the proposed modifications could result in limited negative impacts on surrounding properties. Several conditions of approval have been recommended in addition to those placed by the Plan Commission when it reviewed the earlier version of this request in October 2015. All new and previously approved conditions are noted in the Recommendation section of this report.

At the time of report writing, the Planning Division was not aware of neighborhood opposition to this request. Should concerns be raised during the public hearing or by the Plan Commission’s during their consideration, additional conditions, including conditions related to further limiting the hours of operation could be established. The Plan Commission also retains continuing jurisdiction on all approved conditional uses and should issues or concerns be raised, this item could return to the Plan Commission for further consideration. The Planning Division believes it is possible to meet the applicable standards, with the conditions recommended in this report.

## 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 a modified outdoor eating area, parking reduction, and other modifications including the establishment of an outdoor recreation area for 1313 Regent Street and 7 South Randall Avenue. This recommendation is subject to input at the public hearing and the comments and conditions from reviewing agencies.

### **Recommended Conditions of Approval** Major/Non-Standard Conditions are Shaded

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

1. That there shall be no outdoor amplified sound in the outdoor eating area or in the sand volleyball courts.
2. That the sand volleyball courts and outdoor eating area shall close at 10:00 pm, nightly. No patrons shall remain in these areas after 10:00 pm. Only staff may be present after 10:00 pm for the purpose of area clean up. Lights to the volleyball court area shall be turned off by 10:15 pm.

3. That the site plan be revised to relocate the internal landscaping for the purpose of shifting the volleyball courts to the north. The intent is to provide a minimum 3-5 foot planting area between the proposed screening fence and Bowen Court. Site and landscape details shall be approved by staff.
4. That the screening fence along the eastern property boundary be extended to eight (8) feet in height.
5. That final details on the seasonal netting and support brackets be provided for approval by staff. Any supports used for the seasonal netting shall be removable and not present when the net is not in use.
6. That final details on the volleyball courts shall be provided for approval by staff. This shall include information on any edging used to contain sand.
7. That the outdoor seating area and outdoor volleyball courts shall not be available of use during regular season Wisconsin Badger home football games.
8. That the reception hall/room shall close at midnight.
9. That the parking facilities must be available at all times, and shall not be shut down for any events.
10. That maximum capacities shall be approved by City 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) 82 for patio (chairs & tables-drive capacity number)
  - (c) 155 for reception hall/room when furniture, tables and chairs are present (fixed-seat capacity)
  - (d) 450 for reception hall/room when no tables or chairs present (general assembly capacity)
  - (e) 24 for sand volleyball courts.

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

11. The reception hall/room may be used with the general assembly capacity for Wisconsin Badger Home Football games and other events open to the public taking place within Camp Randall Stadium. The capacity will be limited to 155 (the fixed-seat capacity) on all other days/events.
12. 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.

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

13. 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.
14. The plan set shall be revised to show more information on proposed drainage for the site. This shall be accomplished by using spot elevations and drainage arrows or through the use of proposed contours. It is

necessary to show the location of drainage leaving the site to the public right-of-way. It may be necessary to provide information off the site to fully meet this requirement. (POLICY)

15. The applicant shall 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). 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) Lot lines or parcel lines if unplatted g) Lot numbers or the words unplatted h) Lot/Plat dimensions i) Street names j) Stormwater Management Facilities k) Detail drawings associated with Stormwater Management Facilities (including if applicable planting plans).
16. The applicant's utility contractor shall obtain a connection permit and excavation permit prior to commencing the storm sewer construction. MGO 37.05(7) This permit application is available on line at <http://www.cityofmadison.com/engineering/permits.cfm>.
17. Storm sewer to serve this development has been designed and constructed. The site plans shall be revised to identify the location of this storm sewer and to show connection of an internal drainage system to the existing public storm sewer. (POLICY AND MGO OVER 10,000 SF OF IMPERVIOUS AREA 10.29 and 37.05(7)(b))
18. 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.
19. 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)
20. Prior to approval, this project shall comply with Chapter 37 of the Madison General Ordinances regarding stormwater management. Specifically, this development is required to Reduce TSS by 80% off of the proposed development when compared with the existing site.
21. 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.
22. 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)
23. 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)

24. All damage to the pavement on Regent St & Randall Ave, 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)

**Engineering Division - Mapping** (Contact Jeffrey Quamme, 266-4097)

25. The parking added to this site plan is on an additional separate parcel acquired by the applicant located at 7 Randall Court. To assure the parking and access rights remain regardless of the ownership of the additional parcel, applicant shall provide for review reciprocal easements and agreements including, but not limited to, access, parking, utilities and storm water management that are necessary to accomplish the development as proposed. The document(s) shall then be executed and recorded and copies provided prior to building permit issuance. A no merger clause will be necessary to address the current common ownership.

**Traffic Engineering Division** (Contact Eric Halvorson, 266-6572)

26. The applicant shall adhere to all vision triangle requirements as set in MGO 27.05 (No visual obstructions between the heights of 30 inches and 10 feet – 25 feet behind the property line at streets and 10 feet at driveways.). If applicant believes public safety can be maintained they shall apply for a waiver of MGO 27.05(2) (bb) - Vision Clearance Triangles at Intersections Corners. Approval or denial of the waiver shall be the determination of the City Traffic Engineer.

27. Applicant shall decrease the width of the entrance on S Randall to align with the width of the one-way drive aisle.

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

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

30. 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.

31. 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.

32. Developer shall provide a recorded copy of any joint driveway ingress/egress and crossing easements and shall be noted on face of plan.

33. One way operation of the parallel parking area shall be secured using signage and pavement markings. "One Way Signs" and "Do Not Enter" signs shall be noted on the supplemental plan.



**Zoning Administrator** (Contact Jenny Kirchgatter, 266-4429)

34. A re-evaluation of the previously approved parking reduction is required due to the requested change in capacity and additional parking stalls being provided. The parking requirement for the restaurant-tavern with an outdoor eating area and outdoor volleyball courts is 115 stalls based on a proposed capacity of 764 persons. Twenty-seven (27) parking stalls are proposed resulting in a parking reduction of eighty-eight (88) stalls.
35. Submit the 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.
36. Extend the district boundary screening south of the proposed driveway and parking area accessed from South Randall Ave (adjacent the property at 9 South Randall Ave). 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. Within ten (10) feet of point where the driveway crosses the street property line, the screening height shall be reduced to not more than thirty (30) inches high to maintain vision clearance at the driveway intersection.
37. Submit details of the protective netting surrounding the proposed volleyball courts.
38. Meet applicable building/fire codes. The capacity shall be re-established for the outdoor eating area. Occupancy is established by the Building Inspection Unit. Contact Mike Van Erem at 266-4559 to help facilitate this process.

**Fire Department** (Contact Bill Sullivan, 261-9658)

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

**Parks Division** (Contact Janet Schmidt, 261-9688)

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

**Water Utility** (Contact Dennis Cawley, 261-9243)

39. All operating private wells shall be identified and permitted by the Water Utility in accordance with MGO 13.21. All unused private wells shall be abandoned in accordance with MGO 13.21.

This property is in a Wellhead Protection District–Zone ( 27 ). This proposed use is permitted in this district. Any future change in use for this property will require review by the Madison Water Utility General Manager or his designated representative.

**Metro Transit** (Contact Tim Sobota, 261-4289)

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