

PLANNING DIVISION STAFF REPORT

March 19, 2018



PREPARED FOR THE PLAN COMMISSION

Project Address: 308 S. Paterson Street and 852 Williamson Street (District 6, Ald. Rummel)
Application Type: Conditional Use
Legistar File ID # [50428](#)
Prepared By: Chris Wells, Planning Division
Report Includes Comments from other City Agencies, as noted
Reviewed By: Kevin Firchow, AICP, Principal Planner

Summary

Applicant & Contact: James McFadden; McFadden & Company; 380 W. Washington Ave.; Madison, WI 53704
Property Owner: Holly Alexander; 4674 Raven Way; Cottage Grove, WI 53527

Requested Action: The applicant requests approval of a major alteration to an existing conditional use to add an outdoor eating area at an existing restaurant-tavern on a property zoned TSS (Traditional Shopping Street District) at 308 S. Paterson Street and 852 Williamson Street.

Proposal Summary: The applicant proposes to add a roughly 820-square-foot outdoor eating area at the rear of an existing restaurant-tavern. The outdoor eating area will be located immediately adjacent to the restaurant on the existing concrete patio area and have a capacity of 15-20 persons (note: the maximum capacity of the restaurant-tavern, which includes the outdoor eating area, is 30).

Applicable Regulations & Standards: This proposal is subject to the standards for Conditional Uses [MGO §28.183], as §28.061 of the Zoning Code lists *Outdoor eating areas associated with food and beverage establishments* as a conditional use in the TSS (Traditional Shopping Street) District. The Supplemental Regulations [MGO §28.151] contain further regulations for these uses.

Review Required By: Plan Commission

Summary Recommendation: The Planning Division recommends that the Plan Commission find that the approval standards for Conditional Uses are met and **approve** the request of a major alteration to an existing conditional use to add an outdoor eating area at an existing restaurant-tavern on a property zoned TSS (Traditional Shopping Street District) at 308 S. Paterson Street and 852 Williamson Street. This request is subject to the input at the public hearing and the conditions recommended by the reviewing agencies.

Background Information

Site Location: The subject site is considered one zoning lot that is comprised of two properties: the 5,800-square-foot (0.13-acre) 852 Williamson Street parcel located at the western corner of the intersection of Williamson and S. Paterson Streets and the 2,900-square-foot (0.07-acre) 308 S. Paterson Street parcel located immediately to the north, on the west side of S. Paterson Street, between Williamson Street and E. Main Street. The subject site is within Aldermanic District 6 (Ald. Rummel); the Third Lake Ridge Local Historic District; and the Madison Metropolitan School District.

Existing Conditions and Land Use: The subject site contains two principal structures. On the 852 Williamson Street parcel is a three-story, 5,100-square-foot building, with a full basement. The building fronts onto Williamson Street with the restaurant-nightclub (“The Wisconsin Inn” or “Wisco”) occupying the ground floor and 13 one-room apartments located on the upper two floors. A roughly 1,220-square-foot (53-foot by 23-foot) outdoor eating area is located to the east of the building and runs along the entire northeasterly property line. The second principal structure on the zoning lot, a two-story, 1,900-square-foot commercial building (with a full basement), is located entirely on the 308 S. Paterson Street parcel. A sand volleyball court, considered an outdoor recreational use by the zoning code, is located between the two buildings and straddles the shared lot line of the 852 Williamson Street and 308 S. Paterson Street parcels. Both parcels are zoned TSS (Traditional Shopping Street) District.

Surrounding Land Use and Zoning:

- Northwest: Commercial storage yard, zoned TSS (Traditional Shopping Street) District;
- Northeast: A four-story, 25-unit, multi-family apartment building in the TSS Zoning District;
- Southeast: Across Williamson Street is a two-story, mixed-use building with ground floor commercial and three apartments above, in the TSS Zoning District; and
- Southwest: A two-story, four-unit apartment building beyond which is a two-story, two-unit apartment building. Both are zoned TSS.

Adopted Land Use Plan: The [Comprehensive Plan \(2006\)](#) recommends Commercial Mixed-Use (CMU) uses for the subject site. The [Marquette-Schenk-Atwood Neighborhood Plan \(1994\)](#) included this property within the “Williamson Street Downtown Commercial District B,” in which it notes that businesses should serve downtown workers first and neighborhood consumers second while also contributing to the vitality of the neighborhood. For new and rehabilitated buildings, the Plan recommends requiring said buildings to reflect the character, aesthetics, and scale of the surrounding historic buildings. The [Williamson Street Design Guidelines \(2004\)](#) does not provide specific recommendations for the subject site, which pertain to the appropriateness or design of outdoor eating areas.

Zoning Summary: The subject site is currently zoned Traditional Shopping Street (TSS).

Requirements	Required	Proposed
Front Yard Setback	None	None
Side Yard Setback: Other cases	None unless needed for access	Existing side yard setback
Rear Yard Setback	The lesser of 20% of lot depth or 20’	Adequate
Maximum Lot Coverage	85%	Maintain existing lot coverage
Maximum Building Height	3 stories/ 40’	2 stories existing building

Site Design	Required	Proposed
Number Parking Stalls	Tavern: 15% of capacity of persons (4)	None <i>(See Comment #5)</i>
Accessible Stalls	None	None
Loading	None	None
Number Bike Parking Stalls	Tavern: 5% of capacity of persons (2 minimum)	None <i>(See Comment #6)</i>
Landscaping and Screening	Not required	Yes <i>(See Comment #7)</i>
Lighting	Not required	None <i>(See Comment #9)</i>
Building Forms	Not required	Existing building

Other Critical Zoning Items	Historic District (His-TL); Utility Easements; Barrier Free (ILHR 69)
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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, including seven day-a-week Metro service one block south, along Jenifer Street.

Previous Approvals

On March 18, 1991, the Plan Commission approved a conditional use for an outdoor eating area with outdoor recreational activities (i.e. a volleyball court and horseshow pits) in the parking lot of the “The Wisconsin Inn” (a.k.a. the “Wisco”) located at 852 Williamson Street. Of relevance to the subject request, the Plan Commission’s 1991 approval included a condition that that prohibited outside live or amplified music or other amplified sound and another condition that required exterior lighting be designed in a fashion to minimize impact on the adjacent properties. Note: this approval also required Zoning Board of Appeals approval of a 4-stall parking variance.

On October 26, 1998, the Landmarks Commission approved an identical request as noted above (to add an outdoor eating area and volleyball court at 852-854 Williamson Street) and conditionally granted a certificate of appropriateness with conditions.

On January 14, 1999, the Zoning Board of Appeals approved a four-stall parking reduction variance at 852 Williamson Street to accommodate the proposed 437-square-foot addition to the outdoor eating area.

On December 21, 2011, the Alcohol License Review Committee approved an entertainment license (File ID# [24373](#)) for the Wisco with a capacity of 99 persons, subject to the following conditions: 1) Soundproofing is to be added, such as a sound-absorbing curtain around the area while music is being played and windows being closed while music is being performed; 2) Staff will frequently monitor the exterior of the premises; 3) No outdoor music except for six (6) special events per year with a ten (10) day notice to the neighborhood and these events are to cease by 10:00 pm.

On December 20, 2017, the Alcohol License Review Committee approved a liquor license (File ID# [49637](#)) for Tiny’s Tap House (located at 308 S. Paterson Street), subject to the following conditions: 1) Sunday - Thursday Hours of Operation are 3:00 pm to 11:00 pm. Friday and Saturday Hours of Operation are 3:00 pm to 2:00 am; 2) Outdoor patio lighting must be below the top of the fence and facing down; 3) The bar will have a maximum capacity of 30; and 4) No amplified music on patio.

On January 29, 2018, the Landmarks Commission granted a Certificate of Appropriateness (File ID# [50155](#)) for the following two exterior alterations to the existing building at 308 S. Paterson Street: 1) the pent roof extensions on the front and side over the ramp (i.e. the westerly corner of the building) and 2) the skylights proposed on the northwesterly roof pitch.

Project Description

The applicant requests approval of a major alteration to an existing conditional use to add an outdoor eating area to an existing restaurant-tavern (Tiny’s Tap House), located at 308 S. Paterson Street and 852 Williamson Street, with intent to serve both food and beverage (including alcoholic beverages) in this area. Note: the subject site for this application is considered one zoning lot and is comprised of two lots: 852 Williamson Street and 308 S. Paterson Street. These two properties are considered to be one zoning lot due to the fact that the sand

volleyball court, which is classified as an outdoor recreational use by the zoning code, straddles the properties' shared lot line. Therefore, as the Wisco restaurant-nightclub (located on the 852 Williamson Street) already has a conditional use for their outdoor eating area, the current conditional use request before the Plan Commission for Tiny's Tap House's outdoor eating area is considered a major alteration to an existing conditional use.

The proposed 823-square-foot outdoor eating area is located in the roughly 990-square-foot concrete pad, located at the rear (i.e. on the southwesterly side) of the 308 S. Paterson Street parcel. The applicant requests a capacity of 15-20 persons for the outdoor eating area. While the final details of the seating plan and capacity will ultimately need to be approved by the City's Building Inspection, the Common Council approved a liquor license (File ID# [49637](#)) following the recommendation of the Alcohol License Review Committee (ALRC). That approval was subject to the following conditions: 1) Sunday - Thursday Hours of Operation are 3:00 pm to 11:00 pm. Friday and Saturday Hours of Operation are 3:00 pm to 2:00 am; 2) Outdoor patio lighting must be below the fence and facing down; 3) The bar will have a maximum capacity of 30; and 4) No amplified music on patio. It is understood that the capacity of 15-20 persons for the outdoor eating area is included *within* the 30-person capacity approved by the ALRC. The applicant will therefore need to monitor the total capacity of the facility during operation (both inside the building as well as in the outdoor eating area) to ensure compliance. The applicant requests the same hours as those approved by the ALRC for the restaurant-tavern.

The outdoor eating area is enclosed with a six-foot tall wooden fence with lattice. On the submitted site plan, seating is provided in the form of four 4-person tables and one 2-person table. A door located on the southwesterly façade of the tap house provides access to the eating area and an ADA-accessible ramp as well as stairs provides access to the patio level from the tap house's floor level, which is roughly 1.5 feet above. A gate located at the southerly corner of the patio's fence enclosure provides a second means of egress. A Japanese Maple, various planters, and five Gambion stone walls have been added within the enclosed outdoor area to provide ambiance as well as some sound dampening. In all, the applicant proposes no exterior alterations beyond those which have already been approved by the Landmarks Commission on January 29, 2018.

Regarding transportation options, all-day Metro service with 30-minute headways in both directions is provided along Jenifer Street, with stops located one block south of the subject site at the intersection with S. Paterson Street. Many of the nearby roads either have bicycle accommodations or else are bicycle-friendly and the Capital City Bike Trail, one of the City's most heavily-used off-street cycle tracks, is located just to the north of the site. Fourteen bicycle parking stalls are provided in the right-of-way, roughly 70 feet away at the corner of S. Paterson and Williamson Streets. While no on-site automobile parking stalls are provided, there is however on-street parking on both of the street block faces which abut the subject site. Because six stalls are required to accommodate the facility's capacity of 30, and the applicant is allowed to reduce the parking requirement by up to 5 stalls (per §28.151(5) of the Zoning Code), the applicant will need to request a parking reduction for 1 stall. As the required number of stalls is less than 20, this parking reduction is able to be administratively approved by the City's Zoning Administrator.

Analysis and Conclusion

The Plan Commission shall not approve a conditional use without due consideration of the City's adopted plan recommendations, design guidelines, and finding that all of the conditional use standards of §28.183(6) MGO are met.

This proposed use is compatible with the [Comprehensive Plan \(2006\)](#) which recommends Commercial Mixed-Use (CMU) uses for the subject site. The proposal is also compatible with the [Marquette-Schenk-Atwood](#)

[Neighborhood Plan \(1994\)](#). While the Plan includes this property within the “Williamson Street Downtown Commercial District B” for which it notes that businesses should serve downtown workers first and neighborhood consumers second while also contributing to the vitality of the neighborhood, it makes no mention of the location or design of outdoor eating areas. For new and rehabilitated buildings however, the Plan recommends requiring said buildings to reflect the character, aesthetics, and scale of the surrounding historic buildings. The Planning Division believes this request is compatible with the surrounding buildings and further notes that all exterior changes proposed for the Tiny’s Tap House building, have already received approval from the Landmarks Commission.

The Planning Division anticipates that if well-managed, the proposed outdoor eating area should not result in significant negative impacts to the surrounding properties. Factors such as the limited size and capacity of the proposed patio; the prohibition of amplified or live music on the patio; the location on the side of the building away from the multi-family apartment building; the height and direction requirements for any outdoor patio lighting; and the proposed conditions of approval will help mitigate possible negative impacts. Staff also point to the letter of support provided by the Marquette Neighborhood Association, which fully supports the requested hours of operation as well as the restrictions on lighting and amplified music. Furthermore, Staff believe that parking concerns should be mitigated by the impending addition of the roughly 600-stall Capitol East Parking Ramp, located less than 0.2-miles away from the subject site. While currently under construction and not due to come online until sometime next year, because the ramp will offer 50 stalls to the public at all times and will offer all 600 stalls on evenings after 6:00 PM and on weekends. Finally, if approved, the Plan Commission retains continuing jurisdiction over this conditional use, meaning that should complaints be filed, the Plan Commission could take further action on this conditional use as allowed in MGO Section 28.183(9)(d).

Staff believes that the proposed outdoor eating area can be found to meet the conditional use approval standards and recommends that it be approved by the Plan Commission. At the time of report writing, staff was not aware of any concerns on this request.

Recommendation

Planning Division Recommendation (Contact Chris Wells, (608) 261-9135)

The Planning Division recommends that the Plan Commission find that the approval standards for Conditional Uses are met and **approve** the request of a major alteration to an existing conditional use to add an outdoor eating area at an existing restaurant-tavern on a property zoned TSS (Traditional Shopping Street District) at 308 S. Paterson Street and 852 Williamson Street. This request is subject to the input at the public hearing and the conditions recommended by the reviewing agencies.

Planning Division (Contact Chris Wells, (608) 261-9135)

1. The hours of operation for the outdoor eating area located to the west of the tenant space addressed as 308 S. Paterson Street shall be: Sunday - Thursday, 3:00 pm to 11:00 pm and Friday and Saturday, 3:00 pm to 2:00 am. Future modifications to the hours of operation of the outdoor eating area may be approved in the future as a minor alteration of the conditional use following a recommendation by the district alder.
2. The total capacity of the restaurant-tavern addressed as 308 S. Paterson Street which includes the capacity of the outdoor eating area located to the west of the aforementioned tenant space, shall be 30 persons (note: the final details of the seating plan and capacity to be approved by City Building Inspection). Future modifications to the capacity of the outdoor eating area may be approved in the future as a minor alteration of the conditional use following a recommendation by the district alder and approval from City Building Inspection.
3. Outdoor patio lighting must be below the fence and facing down.
4. There shall be no amplified sound, including, but not limited to television, ambient music or musical performances, in the outdoor eating area located to the west of the tenant space addressed as 308 S. Paterson Street.

Engineering Division (Main Office) (Contact Brenda Stanley, (608) 261-9127)

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

City Engineering Review Mapping (Contact Jeff Quamme, (608) 266-4097)

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

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

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

Zoning Division (Contact Jenny Kirchgatter, (608) 266-4569)

5. Vehicle parking is required for the tavern and outdoor eating area equal to a minimum of 15% of capacity of persons. A minimum of four (4) off-street vehicle parking spaces are required. Zero spaces will be provided. Per MGO Section 28.141(5) Table 28I-4, for non-residential uses, the applicant may reduce the parking requirement by the greater of (5) parking spaces or ten percent (10%) of the required parking.
6. Bicycle parking shall comply with the requirements of Sections 28.141(4)(g) and 28.141(11). A minimum of two (2) bicycle stalls are required. Zero bicycle parking stalls are proposed on the site. Note that bicycle stalls located in the public right-of-way do not count toward the minimum bicycle parking requirement. A

bicycle parking reduction will be required per Section 28.141(5) Table 28I-4. Submit a request for a bicycle parking reduction with the final plan submittal.

7. Identify the location of the refuse disposal area on the site plan. All developments, except single family and two family developments, shall provide a refuse disposal area. If the refuse disposal area is located outside the building, it 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 if provided outside the building.
8. The capacity shall be established for the outdoor eating area. Occupancy is established by the Building Inspection Unit. Contact Building Inspection staff at (608) 266-4559 to help facilitate this process.
9. Exterior lighting provided shall be in accordance with City of Madison General Ordinances Section 10.085. If exterior site lighting is provided, submit an exterior lighting plan and fixture cut sheets with the final plan submittal.
10. Per Section 28.186(4)(b), the property owner or operator is required to bring the property into compliance with all elements of the approved site plans by the date established by the Zoning Administrator as part of the site and building plan approval. Work with Zoning staff to establish a final site compliance date.
11. Signage approvals are not granted by the Plan Commission. Signage must be reviewed for compliance with Chapter 31 Sign Codes of the Madison General Ordinances. Signage permits are issued by the Zoning Section of the Department of Planning and Community and Economic Development. Note that the proposed wall sign location does not meet Chapter 31 Sign Code requirements for a wall sign.

Madison Fire Department (Contact Bill Sullivan, (608) 261-9658)

Provided that the basement level is used only by employees, MFD does not have any concerns with the proposed use.

Parks/Forestry Review (Contact Janet Schmidt, (608) 261-9688)

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

Water Utility (Contact Adam Wiederhoeft, (608) 266-9121)

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

Metro Transit (Contact Timothy Sobota, (608) 261-4289)

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