

From: Rummel, Marsha

Sent: Saturday, March 17, 2018 10:07 PM

To: Zellers, Ledell <district2@cityofmadison.com>; Stouder, Heather <hstouder@cityofmadison.com>

Cc: allalex@hotmail

Subject: 308 S Paterson/Tiny's Tap House Plan Commission item 10

Greetings Plan Commission members-

I have Landmarks Commission at 5p and will not be able to attend Plan Commission.

Tiny's Tap House is unique in that the capacity of the establishment is 30 but Tiny's backyard patio area will abut residents who live on Willy St and future residents if/when the Struck and Irwin site is redeveloped. If you've looked at the locator map in the packet, you can see it clearly <https://madison.legistar.com/View.ashx?M=F&ID=5881964&GUID=4B23C4C7-A6F0-48F1-8F00-88D434D51525>. In general, I'm not supportive of backyard patio uses that serve alcohol, other than the ones already grandfathered in. I understand that some establishments on Williamson St allow patio service hours to go to bar time, like the Crystal Corner and Mickeys, but those hours were approved a long time ago. Currently neighborhood associations in District 6 approach outdoor seating with more scrutiny as the density of alcohol outlets has increased. In the last three to four years, I have rarely seen support for bar time patio hours and generally there has been little or no support for new backyard patios.

Given the staff report supports approval, I urge you to carefully consider the balancing test, and recognize that this new use will impact neighbors already impacted by outdoor uses at the Wisco. I know you review these applications on a case by case basis using the Conditional Use standards but remember that other hopeful applicants will see this as a precedent. As I stated above, I generally don't support backyard patios that abut residential uses. This is based on extended neighborhood conversations that have resulted in neighborhood policies like MNA's Sense of the Neighborhood document http://marquette-neighborhood.org/wp-content/uploads/2015/04/Sense-Of-The-Neighborhood_Final-Copy-2.pdf. I want to take a consistent approach as a policymaker to these requests.

As the alder, I regularly hear affected neighbors raise concerns about noise from outdoor patios and the noise/litter impacts when patrons leave establishments. Neighbors see this as a quality of life issue and feel the impacts on the uses, values and enjoyment of their property (conditional use standard #3). At a neighborhood meeting, years ago, a resident stated her opposition to an outdoor seating application in a way that has stuck with me ever since: it's like having a party in your back yard everynight of the week during warm weather. As more licensed establishments come to District 6, neighbors are paying more attention. Many support the new establishments, but many others are leery about the impacts of increased density of alcohol establishments.

At the neighborhood meeting I held about the liquor license application last year, there was general neighborhood support for the use of the club as a licensed establishment, especially given the small capacity and proposed business model. Neighbors appreciate and respect the applicant. The response to the patio was more mixed with some neighbors expressing concern about a backyard patio, others ok with it.

I understand the Plan Commission may find the standards are met based on the staff report and approve the backyard patio use. If that is where you are headed, I would ask your consideration to change the weekend patio hours and amend the language in the Planning Division conditions. Currently the applicant requests to have the bar and the patio stay open until 2am on Friday and Saturday. In the last several years, the neighborhood's "ask" for patio hours has been 10p on weeknights, 11p on weekend nights. The vast majority of requests have been for outdoor seating areas that face the street. I have been diligent in supporting these hours and would like to be consistent applying this standard to Tiny's Tap House if the proposal for backyard outdoor seating area is approved.

I request that patio service be limited to 11p on Friday and Saturday nights to minimize the late night impacts on nearby neighbors (conditional use #3 uses, values and enjoyment standard).

I request that you delete the last two sentences in the Planning Division recommendations #1 and #2 regarding modifications by minor alterations highlighted below. The way I interpret it, the underlying assumption is that the Planning Division Director and/or PCED Director can approve different hours or capacity through a minor alteration approval (whether or not the alder supports).

"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."

My rationale is we should have a public process to review any requested changes to hours and capacity. The expectation of my constituents is that the Plan Commission has continuing jurisdiction over conditional uses per MGO 28.183(9)(c). My constituents do not expect

staff/alder to approve changes to conditional uses for licensed establishments without being informed about the opportunity to participate in the decisionmaking process.

Regarding Planning Division recommendation #1: If the Plan Commission adopts my request to change the weekend patio hours to 11p (or some time earlier than bar time) and the Council approves it, and then later, the applicant requests an extension of patio hours, I believe it is my responsibility as alder to bring those requests back before neighbors to solicit their input (based on Conditional Use standard #1 endangering public health, safety and general welfare and #3 uses values and enjoyment of other property will not be substantially impaired)). Neighbors should be able to attend a public hearing at the Plan Commission to share comments pro and con. Alternately, the applicant could go to ALRC to request to have the bar stay open later during the week and seek to have their weeknight patio hours extended. In either case, I don't think it should be a minor alteration process, it should automatically be treated as a major alteration with a public review process.

As you know, the ALRC reviews license applications through the lens of public safety and quality of life. Considering the social impacts of alcohol on city resources, I would argue that since alcohol licenses are regulated by state and municipal law and are considered a privilege not a right, the PC should not relinquish continuing jurisdiction on conditional uses that regulate licensed establishments and should not defer to administrative review when changes to licensed establishments are proposed that are subject to Conditional Uses.

Regarding Planning Division recommendation #2: The physical capacity for the building could change due to Building Inspection review. At this point, the applicant is requesting a 30 person capacity, but if Building Inspection sets a legal capacity exceeding the approved licensed premise and at some future date the applicant wants to increase capacity, the applicant would apply for a change of license premises at ALRC that would presumably include an increase in capacity for both the building and the patio. The change in capacity should not be a minor alteration for the outdoor seating. I believe any changes to the Conditional Use should mirror the formal and transparent process required to change licensed premises at the ALRC.

The Plan Commission should treat alcohol as a serious public policy issue and respect that approval of licenses is a privilege that must be earned and not a right. The Plan Commission should not treat changes to conditional uses related to licensed establishments as an administrative detail.

Thank you for considering my requests.

Marsha