



Project Address: 3900 Dempsey Road (15th Aldermanic District, Alder Ahrens)
Application Type: Conditional Use
Legistar File ID #: [51765](#)
Prepared By: Chris Wells, Planning Division
Report Includes Comments from other City Agencies, as noted
Reviewed By: Kevin Firchow, AICP, Principal Planner

Summary

Applicant / Property Owner: Mitat Ibrahim; Horseshoe Bar, LLC; 3900 Dempsey Road; Madison, WI 53716
Project Contact: Chad Corfits; Accurate Custom Creations, LLC; 910B Cottage Court; Madison, WI 53714

Requested Action: Approval of a Conditional Use to establish an outdoor seating area for a restaurant-tavern located in the Commercial Corridor-Transitional (CC-T) Zoning District at 3900 Dempsey Road.

Proposal Summary: The applicant proposes add an outdoor eating area adjacent to an existing restaurant-tavern, with capacity of thirty (30) people.

Applicable Regulations & Standards: This proposal is subject to the standards for Conditional Uses [MGO §28.183], as Table 28D-2 in §28.061(1) of the Zoning Code lists an *Outdoor eating area associated with food and beverage establishments* as a Conditional Use in the Commercial Corridor-Transitional (CC-T) District. The Supplemental Regulations [MGO §28.151] contain further regulations for this use.

Review Required By: Plan Commission (PC)

Summary Recommendation: The Planning Division recommends that the Plan Commission find that the Conditional Use standards are met and **approve** the request to establish an outdoor seating area for a restaurant-tavern located in the Commercial Corridor-Transitional (CC-T) Zoning District at 3900 Dempsey Road. This recommendation is subject to input at the public hearing and the conditions recommended by the Planning Division and other reviewing agencies.

Background Information

Parcel Location: The property is located at the southeast corner of Cottage Grove Road and Dempsey Road; Aldermanic District 15 (Ahrens); Madison Metropolitan School District.

Existing Conditions and Land Use: The 13,380-square-foot (0.31-acre) corner lot is developed with a two-story, roughly 2,970-square-foot, mixed-use building originally constructed in 1938. The building's 1,745-square-foot ground floor contains a restaurant-tavern (the Horseshoe Bar). The second level contains a 1,225-square-foot, three-bedroom apartment. The building also has a roughly 860-square-foot basement. The entire site is paved and 23 surface parking stalls (including one accessible stall) are located to the north and east of the building. The site is accessed from both Cottage Grove Road as well as Dempsey Road.

Surrounding Land Use and Zoning:

North: Across Cottage Grove Road is a KFC restaurant Industrial – Limited (IL) Zoning District;

South: Single-family residences in the Suburban Residential – Consistent 1 (SR-C1) Zoning District;

East: An automobile service station in the Commercial Corridor-Transitional (CC-T) Zoning District; and

West: Across Dempsey Road is an automobile sales station, in the CC-T Zoning District.

Adopted Land Use Plan: The [Comprehensive Plan \(2006\)](#) recommends Neighborhood Mixed-Use (NMU) for this area.

Zoning Summary: The property is in the Commercial Corridor - Transitional (CC-T) Zoning District.

Requirements	Required	Proposed
Front Yard Setback	None	No change
Side Yard Setback	5'	No change
Rear Yard Setback	The lesser of 20% of lot depth or 20'	No change
Maximum Lot Coverage	85%	No change
Maximum Building Height	5 stories/ 68'	2 stories

Site Design	Required	Proposed
Number Parking Stalls	Restaurant-tavern within 300 feet of another: 15% of capacity (129) = 19	22
Accessible Stalls	1	1
Number Bike Parking Stalls	Restaurant-tavern: 5% of capacity (129) = 6	8

Other Critical Zoning Items	Barrier Free (ILHR 69)
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Tables Prepared by Jacob Moskowitz, Assistant Zoning Administrator

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 Metro Transit.

Previous Approvals

On June 5, 2018, the Alcohol License Review Committee approved a Change of Licensed Premise request (File ID# [51661](#)) for the Horseshoe Bar, LLC changing their inside/outside capacity from 99/0 to 99/30.

Project Description

The applicant, The Horseshoe Bar, proposes to establish an outdoor seating area adjacent to its existing restaurant-tavern, with intent to serve both food and beverage (including alcoholic beverages) in this area. The outdoor eating area will be located on a 360-square-foot, raised concrete deck, which will be constructed along the northerly side of the building. It will have a proposed capacity of 30 persons with seating consisting of five 4-person tables (note: the final details of the seating plan and capacity to be approved by the Building Inspection Unit). The patio will be roughly 1.6 feet above grade and have aluminum railing along the three exposed sides. The project will also include the addition to the building of a roughly 6.5-foot x 7-foot entrance

vestibule and an ADA-accessible ramp, which will run along the restaurant-tavern façade and provide access to both the patio as well as the vestibule. As stated in the submitted materials, the eating area will not have amplified music and for the hours of operation, the applicant is requesting the following: 9:00 am – 1:00 am, daily.

Regarding site changes, the majority of the proposed changes consist of the restriping of the parking stalls and circulation of traffic within the site. To make room for the patio, the four parking stalls, which were formerly located at the north of the building, will be relocated to the westerly side and converted to diagonal stalls. These stalls will be accessed via a one-way drive aisle, which will be added and will circulate traffic clockwise around the west and north of the building. The site's other 18 stalls, including the one accessible stall, located on the easterly side of the building, will still be accessed via the two-way drive aisle which runs along the easterly and southerly sides of the building. While there are currently four curb cuts providing access to the site, the applicant proposes to restrict automobile entry to just two – the curb cut at the northeast corner of the site (which accesses Cottage Grove Road) and the curb cut at the southwest corner of the site (which accesses Dempsey Road). To do so, 30-inch tall wooden posts will be added every eight feet along the portion of both street frontages located between the remaining two curb cuts and rope will be strung between the posts. Lastly, bicycle parking will be provided by way of the four stalls, which will be added to the west of the patio.

It should be noted that this is almost the exact site plan which was approved by staff as part of a site plan review process back on May 3, 2018. As the programming of the proposed patio changed and the approved site plan changes were never implemented, the applicant is resubmitting the slightly updated plan in its stead.

Analysis and Conclusion

The application is subject to Conditional Use standards as *Outdoor eating areas associated with food and beverage establishments* require Conditional Use approval in the Commercial Corridor-Transitional (CC-T) Zoning District. The Supplemental Regulations [MGO §28.151] contain further regulations for this use.

Conditional Use Standards

In regards to the approval standards, 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 MGO §28.183(6) are met. Based on the provided information, the Planning Division believes the conditional use standards can be found met. Staff believes the proposal is consistent with the [Comprehensive Plan \(2006\)](#) which recommends Neighborhood Mixed-Use for this area. Staff also believes that if well-managed, the proposed outdoor eating area should not result in significant negative impacts to the surrounding properties. Factors such as the placement of the outdoor eating area on the north side of the building, near the busiest street, and over 100 feet away from the nearest single-family residences; the lack of amplified sound; and the proposed conditions of approval will help mitigate anticipated impacts. Staff are mindful of the lateness of the proposed hours of operation of the patio, and to that end, Staff point out that 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 §28.183(9)(d).

At the time of report writing, staff was not aware of any concerns on this request.

Supplemental Regulations for Outdoor Eating Areas Associated With Food and Beverage Establishments

Outdoor Eating Areas Associated with Food and Beverage Establishments are also subject to the Supplemental Regulations pursuant to Section 28.151. These include the following:

- a) Primary access to the area shall be from within the establishment.
- b) Hours of operation may be restricted and noise and lighting limits imposed as part of the conditional use approval.
- c) Where the use is conditional, an appropriate transition area between the use and adjacent property may be required, using landscaping, screening, and other site improvements consistent with the character of the neighborhood.

The Planning Division believes the Supplemental Regulations are met, with the recommended conditions.

Recommendation

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

The Planning Division recommends that the Plan Commission find that the Conditional Use standards are met and **approve** the request to establish an outdoor seating area for a restaurant-tavern located in the Commercial Corridor-Transitional (CC-T) District at 3900 Dempsey Road. This recommendation is subject to input at the public hearing and the conditions recommended by the Planning Division and other reviewing agencies.

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

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

1. The hours of operation for the outdoor eating area shall be 9:00 am – 1:00 am, daily. Future modifications to the hours of operation of the outdoor eating area may be requested by the applicant in the future as a minor alteration of the Conditional Use.
2. The capacity of the outdoor eating area located in front of the tenant space addressed as 3900 Dempsey Road shall not exceed thirty (30) persons (note: the final details of the seating plan and capacity to be approved by the Building Inspection Unit). Future modifications to the capacity of the outdoor eating area may be considered as a minor alteration of the Conditional Use.
3. The applicant shall resolve all discrepancies regarding the capacity of the outdoor eating area and modify all documents accordingly. The capacity shall be consistent with that approved by the City's Alcohol License Review Committee at their meeting on June 5, 2018.
4. There shall be no amplified sound, including, but not limited to television, ambient music or musical performances, in the outdoor eating area.

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

5. Current plan shows less than 4,000 sf disturbed area. If plans are not revised, no Erosion Control or Storm Water Management Permits will be required.

Engineering Division (Mapping) (Contact Jeffrey Quamme, (608) 266-4097)

6. The planned bollards locations at the corner of Dempsey Road and Cottage Grove Road shall be modified. There the right of way at the corner is rounded by a 15' radius per Doc No. 1139188. The boundary of the parcel shall be corrected and the bollards moved onto the property outside of the public right of way.

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

7. 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.
8. All parking facility design shall conform to MGO standards, as set in section 10.08(6).
9. 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.
10. 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.
11. Stop signs shall be installed at a height of seven (7) feet at all class III driveway approaches, including existing driveways, behind the property line and noted on the plan. All directional/regulatory signage and pavement markings on the site shall be shown and noted on the plan.
12. The applicant shall secure the parking facility (extend the fence to align with the southern drive aisle) as was done on the site plan approved by Traffic Engineering on March 2nd 2018.

Zoning (Contact Jacob Moskowitz, (608) 266-4560)

13. The letter of intent states an added capacity of 30 persons, for a total of 129, but the site plan shows an added capacity of 40 persons. Revise the site plan and letter of intent to match.

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

14. Documents and plans are not in agreement as to the total capacity allowed and the building occupancy classification. Provide documentation on the official maximum capacity and confirm the building will be classified as a Group A-2 Assembly or a Group B-Business.

Parks/Forestry Review (Contact Kate Kane, (608) 261-9671)

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

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

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

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

15. The applicant shall construct a permanent physical barrier between the private vehicular drive aisle and the City right-of-way, that includes the public sidewalk and bus stop passenger loading area.
 16. The applicant shall include the location of these transit amenities on the final documents filed with their permit application so that Metro Transit may review and approve the design.
17. The applicant might consider additional transit amenities on the property adjacent this bus stop zone, such as a trash receptacle or seating amenity, in finalizing their landscape plan.