



PREPARED FOR THE PLAN COMMISSION

Project Address: 301 North Street
Application Type: Conditional Use
Legistar File ID # [55022](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted.

Summary

Applicant: Jeff Davis & Sam Kahle, Angus Young; 16 N. Carroll Street; Madison.

Property Owner: Nicholas Zabel, Dexter’s Pub; 301 North Street; Madison.

Requested Action: Approval of a conditional use in the Neighborhood Mixed-Use (NMX) District for a restaurant-tavern; consideration of a conditional use for outdoor recreation in the NMX District; and consideration of a conditional use in the NMX District for an outdoor eating area, all to allow construction of an addition to an existing restaurant-tavern with outdoor recreation and eating at 301 North Street.

Proposal Summary: The applicant is requesting approval to construct an approximately 1,500 square-foot addition as part of a renovation of the existing 3,800 square-foot “Dexter’s Pub.” The addition and new outdoor eating area will replace most of a small on-site parking lot and sand volleyball pit located along the northerly wall of the building. The patio will be ringed by open space, which the applicant proposes to use for lawn games. The outdoor eating area will have a capacity of 32 persons and be open until 10:00 p.m. seven days a week. The renovation and construction of the addition will commence as soon as all regulatory approvals have been granted, with completion anticipated in September 2019.

Applicable Regulations & Standards: Table 28D-2 in Section 28.061 of the Zoning Code identifies restaurant-taverns as a conditional use in the NMX (Neighborhood Mixed-Use) zoning district subject to supplemental regulations in Section 28.151. Outdoor eating areas for food and beverage establishments and outdoor recreation are conditional accessory uses in the NMX district subject to supplemental regulations in Section 28.151. Section 28.183 of the Zoning Code provides the process and standards for the approval of conditional use permits.

Review Required By: Plan Commission

Summary Recommendation: The Planning Division recommends that the Plan Commission find the standards met and **approve** conditional uses for a restaurant-tavern with outdoor eating area and outdoor recreation at 301 North Street subject to input at the public hearing and the conditions from reviewing agencies beginning on page 5 of this report.

Background Information

Parcel Location: An approximately 0.27-acre (11,894 square feet) parcel located at the northeasterly corner of North Street and E. Johnson Street; Aldermanic District 12 (Abbas); Madison Metropolitan School District. A 33-stall parking lot located at 313 North Street adjacent to the subject site is owned by the applicant and provides parking for the restaurant-tavern. However, the parking lot is located on a separate 0.48-acre parcel and is subject to a separate zoning approval.

Existing Conditions and Land Use: Dexter’s Pub, zoned NMX (Neighborhood Mixed-Use District).

Surrounding Land Uses and Zoning:

North: Bashford United Methodist Church, zoned TR-C4 (Traditional Residential–Consistent 4 District);

South: One-story multi-tenant commercial building (Crostiti, Jade Mountain Cafe, etc.), zoned NMX (Neighborhood Mixed-Use District);

West: Two-story office building and one-story shop building on west side of E. Johnson-North Street intersection, zoned NMX; single- and two-family residences, zoned TR-C4;

East: Single- and two-family residences, zoned TR-C4.

Adopted Land Use Plans: The subject site is located within the limits of the 2016 [Emerson East-Eken Park-Yahara Neighborhood Plan](#). While the plan makes specific recommendations for commercial properties elsewhere along North Street and E. Johnson Street, there are no specific land use or design recommendations that impact the subject site.

The Comprehensive Plan recommends the subject site and other commercial properties at the E. Johnson Street and North Street intersection for Neighborhood Mixed-Use development, with the surrounding single- and two-family residences recommended for Low Residential uses.

Zoning Summary: The site is zoned NMX (Neighborhood Mixed-Use District):

Requirements	Required	Proposed
Maximum Front Yard	25'	2.5'
Side Yards	5'	10.4'
Rear Yard	20'	32'
Maximum Lot Coverage	75%	71%
Maximum Building Height	3 stories / 40'	1 story
Auto Parking	44	35, including adjacent lot
Accessible Stalls	2	2
Bike Parking	15	8 (See conditions)
Loading	Not Required	0
Building Forms	Free-standing Commercial Building	Building and addition comply
Other Critical Zoning Items		
Yes:	Barrier Free, Utility Easements	
No:	Urban Design, Floodplain, Wellhead Protection, Landmarks, Waterfront Development, Adjacent to Park	
<i>Prepared by: Jacob Moskowitz, Assistant Zoning Administrator</i>		

Environmental Corridor Status: The property is not located in a mapped environmental corridor.

Public Utilities and Services: The site is served by a full range of urban services, including weekday Metro Transit service along North Street north of the E. Johnson Street intersection.

Previous Approvals

On March 18, 1991, the Plan Commission approved a demolition permit to demolish a single-family residence at 313 North Street and approved a conditional use to construct a 37-stall parking lot in R4 (General Residence District) zoning [1966 Zoning Code] to serve an adjacent restaurant at 301 North Street in C2 (General Commercial District) zoning.

On April 23, 2003, the Plan Commission approved a conditional use for outdoor recreation to allow a sand volleyball pit on the subject site.

Project Description

The applicant is requesting approval of conditional uses to renovate the existing one-story, 3,800 square-foot Dexter's Pub at the northeasterly corner of North and E. Johnson Streets, and to construct an approximately 1,500 square-foot addition and outdoor eating area along the northern wall of the building. The proposed addition will replace most of an existing on-site surface parking lot and sand volleyball pit currently located between the existing northern wall and northern property line. The addition will include new bathrooms, walk-in coolers, and a second dining room and bar for the pub, which may also be used as private event space. The addition will open onto a proposed outdoor eating area with seating for 32 persons, which will be surrounded by a grass area that will be used for lawn games and a sandbox.

The exterior of the addition will be clad in horizontal siding intended to complement the brick exterior of the original 1948 building, which will be refurbished with the project. As part of the project, a mansard roof added circa 1980 will be removed. The proposed dining patio will be partially covered by a pergola. The lawn area and outdoor eating area will be screened on the north and east by a six-foot tall vinyl fence; a detail of the fence is included in the project plans.

The restaurant-tavern proposes to operate from 11:00 a.m. until 2:00 a.m., seven days a week, although the letter of intent indicates that it may open earlier for brunch and special events. The outdoor eating area will operate seven days a week from 11:00 a.m. until 10:00 p.m.

Two accessible parking stalls are proposed to remain on the subject site to serve the expanded restaurant-tavern. Most of the parking for the restaurant-tavern is provided in a separate 33-stall lot located adjacent to the north of the subject site at 313 North Street, which will remain. The adjacent lot is zoned TR-C4 and operates under a conditional use granted in 1991 for what the current Zoning Code calls a "non-accessory parking facility," which allows off-street parking in a residential zoning district for a nearby commercial use. The 35 total parking stalls to be provided by the applicant are less than the 44 stalls required for the expanded restaurant-tavern by the Zoning Code, and will require an administrative parking reduction to be reviewed by the Zoning Administrator prior to final approval and issuance of building permits for the project.

Supplemental Regulations

Section 28.151 of the Zoning Code includes the following supplemental regulations for a Restaurant-Tavern, which is defined as "any establishment in which meals are provided and fermented malt beverages or intoxicating liquors are sold for consumption upon the premises." The supplemental regulations are:

- (a) Maximum capacity to be established by the Director of the Building Inspection Division, not to exceed the number of available seats, plus staff, plus a reasonable number of people waiting for seats.
- (b) Restaurant-Taverns shall not hold an entertainment license under MGO Section 38.06(11).
- (c) Restaurant-Taverns shall at all times operate consistent with and according to the requirements of a valid alcohol license issued by the City.

The supplemental regulations for Outdoor Recreation are:

- (a) A minimum 25-foot setback area maintained as open space shall be provided along the perimeter of the site wherever it abuts a residential district.
- (b) If the use will be available to the general public, an arterial or collector street of sufficient capacity to accommodate the traffic that the use will generate shall serve the site. Ease of access to the site by automobiles, transit, bicycles, and pedestrians shall be considered as a factor in the review of any application.
- (c) The site shall be designed in such a way as to minimize the effects of lighting and noise on surrounding properties. Hours of operation may be restricted and noise and lighting limits imposed as part of the conditional use approval.
- (d) 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 supplemental regulations for Outdoor Eating Areas are:

- (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.

Analysis & Conclusion

The subject site appears to have housed a restaurant-tavern since the building was constructed in 1948. Under the 1966 Zoning Code, the site was zoned C2 (General Commercial District), which allowed restaurants and taverns as permitted uses, although outdoor eating areas and outdoor recreation like the sand volleyball pit on the site required conditional use approval. However, consistent with the 2006 Comprehensive Plan Neighborhood Mixed-Use recommendation for the site and nearby commercial properties at the E. Johnson-North Street intersection, the site was zoned NMX with the adoption of the 2013 Zoning Code. Restaurant-taverns, taverns, accessory outdoor recreation, and accessory outdoor eating areas for food and beverage establishments are all identified as conditional uses in the NMX zoning district subject to supplemental regulations in Section 28.151. Although the existing 3,800 square-foot restaurant-tavern could remain as a nonconforming use in the NMX district, Zoning and Planning staff determined that the proposed 1,500 square-foot addition would require conditional use approval prior to construction, as would the new outdoor eating area. Also, while the scale and scope of the outdoor

recreation component is reduced from seasonal sand volleyball to lawn games and a sandbox for customers, staff felt it would be appropriate to review and approve those aspects of the new project at this time.

The Planning Division believes that the Plan Commission may find the standards for approval met to allow the proposed restaurant-tavern, outdoor recreation, and outdoor eating area. Staff does not feel that the proposed conditional uses will have an adverse impact on the uses, values and enjoyment or normal and orderly development of the site or surrounding properties. The proposed hours for the expanded restaurant-tavern will be the same as currently (11:00 a.m. until bar time), and staff believes that the proposed 10:00 p.m. closing time for the outdoor eating area is reasonable. However, as is customary for outdoor eating areas in or near residential areas, staff cannot support the applicant's request for ambient music for the patio, and recommends that a condition be imposed prohibiting it. Staff also believes that it would be reasonable to require that the doors opening onto the outdoor eating area be closed at 10:00 p.m. when the outdoor areas close.

No alder, public, or neighborhood association comments have been received as of the writing of this report that would suggest that the Plan Commission could not approve the request as submitted subject to the conditions in the following section. As with any conditional use, the Plan Commission retains continuing jurisdiction in the event that complaints are received about any of the conditional uses associated with the subject site, which could result in more restrictive conditions being applied if deemed necessary.

Recommendation

Planning Division Recommendation (Contact Timothy M. Parks, 261-9632)

The Planning Division recommends that the Plan Commission find the standards met and **approve** conditional uses for a restaurant-tavern with outdoor eating area and outdoor recreation at 301 North Street subject to input at the public hearing and the following conditions:

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

Planning Division

1. No outdoor amplified sound (from music, televisions, etc.) or live musical performance shall be allowed in the outdoor eating or recreation areas.
2. The outdoor eating and outdoor recreation areas shall close at 10:00 p.m., seven days a week. The doors on the northern wall of the addition shall also be closed at this time. The Director of the Planning Division may consider a minor alteration to the conditional use in the future to further modify the hours of operation for the outdoor areas following a recommendation by the district alder.
3. The final zoning plans shall include a complete and accurate accounting of the floor area of the building, including any finished and unfinished space in the basement, and shall include the projected capacity of the interior areas as well as the outdoor eating area (subject to approval by the Director of the Building Inspection Division and Fire Marshal).

The following conditions have been submitted by reviewing agencies:

City Engineering Division (Contact Brenda Stanley, 261-9127)

4. The applicant shall demonstrate compliance with Section 37.07 and 37.08 of 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.
5. All outstanding Madison Metropolitan Sewerage District (MMSD) charges are due and payable prior to City Engineering Division sign-off, unless otherwise collected with a Developer's/ Subdivision Contract. Contact Mark Moder (261-9250) to obtain the final MMSD billing a minimum of two (2) working days prior to requesting City Engineering signoff.
6. The applicant shall submit, prior to plan sign-off but after all revisions have been completed, a digital CAD file (single file) to the Engineering Division with any private storm and sanitary sewer utilities. 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. The digital copies shall be drawn to scale and represent final construction including: building footprints; internal walkway areas; internal site parking areas; other miscellaneous impervious areas (i.e. gravel, crushed stone, bituminous/asphalt, concrete, etc.); right-of-way lines (public and private); plat name and lot lines (metes & bounds parcel lines if unplatted); platted lot numbers (noted "unplatted lands" if not platted); lot/plat property dimensions; street names; private on-site sanitary sewer utilities (including all connections to public sanitary); private on-site storm sewer utilities (including all connections to public storm). All other levels (contours, elevations, etc.) are not to be included with this file submittal. E-mail CAD file transmissions are preferred to: bstanley@cityofmadison.com (East) or ttroester@cityofmadison.com (West). Include the site address in the subject line of this transmittal. Any changes or additions to the location of the building, sidewalks, parking/pavement, private on-site sanitary sewer utilities, or private on-site storm sewer utilities during construction will require a new CAD file.
7. For commercial sites less than one (1) acre in disturbance, the City of Madison is an approved agent of the Department of Commerce and Wisconsin Department of Natural Resources (WDNR). As this project is on a site with disturbance area less than one acre 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.
8. 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 Madison General Ordinances.
9. The applicant's project requires the minor restoration of the street and sidewalk. The applicant shall obtain a Street Excavation Permit for the street restoration work, which is available from the City Engineering Division. The applicant shall pay all fees associated with the permit including inspection fees.

City Engineering Division–Mapping Section (Contact Jeff Quamme, 266-4097)

This agency reviewed the request and has recommended no conditions of approval.

Traffic Engineering Division (Contact Eric Halvorson, 266-6527)

10. The applicant shall submit one contiguous plan for approval showing proposed conditions and one contiguous plan showing existing conditions for approval. The plan drawing 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.
11. 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.
12. 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.
13. All parking facility design shall conform to the standards in MGO Section 10.08(6).
14. All bicycle parking adjacent pedestrian walkways shall have a two-foot buffer zone to accommodate irregularly parked bicycles and/or bicycle trailers.
15. "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.
16. Dimensions of the driveways shall be noted on the plan including the width of driveway and width of driveway flares or curb cut.
17. The applicant shall modify the width of the southern driveway to match the proposed drive aisle.
18. Secure parking facility. This is usually done with continuous six (6)-inch curb, timbers, preformed wheel stops, guardrail erected at a height of eighteen (18) inches or fencing of sufficient strength to act as a vehicle bumper.
19. All sidewalks next to buildings shall be minimum six (6) feet in width.

Zoning Administrator (Contact Jacob Moskowitz, 266-4560)

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| 20. A vehicle and bicycle parking reduction will be required per Section 28.141(5). Submit a request for a parking reduction request to the Zoning Administrator with the final plan submittal including information to support the argument for reducing the required number of spaces. |
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21. The proposed attached pergola appears to be located within the required 20-foot rear yard setback. The pergola will need to be modified to be outside of this required setback.
22. Submit an updated 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 10,000 square feet in size must be prepared by a registered landscape architect.
23. 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.
24. Submit a rooftop plan showing the location of any proposed rooftop mechanical equipment and screening. All rooftop equipment shall be screened from view from adjacent streets and public rights-of-way per Sections 28.060(2)(f) and 28.142(9)(d). Screens shall be of durable, permanent materials that are compatible with the primary building materials.

Police Department

This agency reviewed the request and has recommended no conditions of approval.

Fire Department (Contact Bill Sullivan, 261-9658)

25. The Madison Fire Department does not object to the proposed project provided it complies with all applicable building and fire codes. A fire sprinkler system shall be installed and a fire alarm system may be required if the occupant load exceeds 300 people.
26. Plans appear to indicate an emergency exit from the lawn area out to Parcel B. Ensure proper cross-access easements are in place to accommodate any necessary egress and/or fire access requirements.

Parks Division (Contact Kathleen Kane, 261-9671)

This agency reviewed the request and has recommended no conditions of approval.

Parks Division–Forestry Section (Contact Brad Hofmann, 267-4908)

27. An existing inventory of trees (location, species, & DBH) and any tree removal plans (in PDF format) shall be submitted to the plans and Brad Hofmann – bhofmann@cityofmadison.com or 266-4816. All proposed street tree removals within the right of way shall be reviewed by City Forestry. Approval and permitting of street tree removals shall be obtained from the City Forester and/or the Board of Public Works prior to the approval of the site plan.
28. Existing street trees shall be protected. Please include the following note on the site plan: “Contractor shall install tree protection fencing in the area between the curb and sidewalk and extend it at least 5 feet from both sides of the tree along the length of the terrace. No excavation is permitted within 5 feet of the outside edge of a tree trunk. If excavation within 5 feet of any tree is necessary, contractor shall contact City Forestry (266- 4816) prior to excavation to assess the impact to the tree and root system. Tree pruning shall be coordinated with City Forestry prior to the start of construction. Tree protection specifications can be found in Section 107.13 of *City of Madison Standard Specifications for Public Works Construction*. Any tree removals

that are required for construction after the development plan is approved will require at least a 72-hour wait period before a tree removal permit can be issued by Forestry, to notify the Alder of the change in the tree plan.”

Water Utility (Contact Adam Wiederhoeft, 261-9121)

29. A Water Service Application Form and fees must be submitted before connecting to the existing water system. Provide at least two (2) working days’ notice between the application submittal and the requested installation or inspection appointment. Application materials are available on the Water Utility’s Plumbers a Contractors website (<http://www.cityofmadison.com/water/plumberscontractors>), otherwise they may be obtained from the Water Utility Main Office at 119 E. Olin Avenue. A licensed plumber signature is required on all water service applications. For new or replacement services, the property owner or authorized agent is also required to sign the application. A Water Meter Application Form will subsequently be required to size and obtain a water meter, establish a Water Utility customer account, and/or establish a Water Utility fire service account. If you have questions regarding water service applications, please contact Madison Water Utility at 266-4646.
30. Revise the Utility Plan to show existing water mains, services, valves and hydrants. Also, specify proposed size and material of proposed water service lateral.
31. The Madison Water Utility shall be notified to remove the existing water meter in conjunction with the Water Utility Meter Application submittal. Contact the Water Utility Meter Department at 266-4765 to schedule the meter removal appointment.

Metro Transit (Contact Tim Sobota, 261-4289)

32. In coordination with any public works improvements, the applicant shall maintain or replace the concrete terrace at the existing Metro bus stop on the east side of North Street, north of E. Johnson Street (#1635). 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 the design.