



PREPARED FOR THE PLAN COMMISSION

Project Address: 2 & 8 South Mills Street (District 13 – Ald. Arntsen)
Application Type: Demolition Permit and Conditional Use
Legistar File ID # [53732](#)
Prepared By: Sydney Prusak, Planning Division
Report Includes Comments from other City Agencies, as noted
Reviewed By: Kevin Firchow, AICP, Principal Planner

Summary

Applicants &

Property Owner: Phil Leung; Hong Kong Café; 2 South Mills Street; Madison, WI 53715

Contact: Matt Aro; Aro Eberle Architects; 116 King Street Suite 202; Madison, WI 53703

Requested Action: The applicant requests approval of a demolition permit and a conditional use to demolish a two-unit dwelling and expand a parking lot and non-accessory temporary outdoor events at an existing restaurant-tavern in the Traditional Shopping Street (TSS) Zoning District at 2 & 8 South Mills.

Proposal Summary: The applicant proposes to demolish a two-family dwelling in order to expand a parking lot and non-accessory temporary outdoor events (i.e. a beer garden for home UW football games) at an existing restaurant-tavern (Hong Kong Café). Non-accessory temporary outdoor events are a conditional use in the TSS Zoning District. The property has an existing conditional use for a beer garden on UW football home games and is seeking a major alteration to increase the capacity and area of these events.

Applicable Regulations & Standards: This proposal is subject to the standards for Demolition and Removal Permits [MGO §28.185(7)] and Conditional Uses [MGO §28.183].

Review Required By: Plan Commission

Summary Recommendation: The Planning Division recommends that the Plan Commission find that the standards for demolition and removal and conditional uses are met and **approve** the demolition and conditional use request to demolish a two-family residence and expand a parking lot and non-accessory temporary outdoor events in the Traditional Shopping Street (Traditional Shopping Street) Zoning District at 2 and 8 South Mills Street. This recommendation is subject to input at the public hearing and the conditions recommended by the reviewing agencies.

Background Information

Parcel Location: The 10,676-square-foot (approximately 0.24-acre) subject property is located at the southwest corner of the Regent Street and Mills Street intersection. The site is within Aldermanic District 13 (Ald. Arntsen), as well as the Madison Metropolitan School District.

Existing Conditions and Land Use: The subject site is currently comprised of two parcels. The property addressed 8 South Mills Street contains a two-story, two-unit, 3,780-square-foot residential building, which is proposed for demolition. There is also a 720-square-foot accessory building (garage) on the site. According to City Assessor's records, the residence was constructed in 1908 and contains four bedrooms and two bathrooms. Photos of the existing residence are available online at:

<https://madison.legistar.com/View.ashx?M=F&ID=6719792&GUID=B9D57392-B261-40A4-A7D8-FE0B3C1554ED>.

The property addressed 2 South Mills Street contains a mixed-use building with the existing restaurant-tavern occupying the first floor, with two residential units on the second floor. The site includes an outdoor eating area and small parking lot, which is currently used as an approved beer garden for UW home football games.

Surrounding Land Use and Zoning:

North: Restaurant with a vehicle sales and service aisle (McDonalds), zoned Traditional Shopping Street (TSS), with a University of Wisconsin building, zoned Campus Institutional (CI) beyond;

South: Three-family, two-family, and single-family homes zoned Traditional-Residential-Varied 1 (TR-V1);

East: A medical clinic and surface parking lot, zoned CI; and

West: A surface parking lot, zoned TSS, with a commercial building beyond.

Adopted Land Use Plan: The [Comprehensive Plan \(2018\)](#) recommends Neighborhood Mixed Use (NMU) for the subject site, which includes residential uses, as well as retail, restaurant, service, institutional, and civic uses primarily serving nearby residents. The [Regent Street - South Campus Neighborhood Plan \(2008\)](#) also recommends NMU for the subject site. According to the neighborhood plan, NMU was chosen for the Regent Street corridor to, "ensure the flexibility necessary to create an area that offers retail, entertainment, and residential uses."

Zoning Summary: The property is zoned Traditional Shopping Street (Traditional Shopping Street).

| Requirements | Required | Proposed |
|---|---|-------------------------------------|
| Front Yard Setback | None | None |
| Side Yard Setback: Where buildings abut residentially zoned lots at side lot line | Minimum side yard required in the adjacent (5') | South side yard is adequate |
| Side Yard Setback: Other cases | None unless needed for access | North side yard setback is existing |
| Rear Yard Setback | The less of 20% of lot depth or 20' | Existing rear yard |
| Maximum Lot Coverage | 50% | 84.8% |
| Maximum Building Height | 3 stories/40' | 2 story existing building |

| Site Design | Required | Proposed |
|----------------------------|--|-------------------|
| Number Parking Stalls | Restaurant-tavern: 15% of capacity of persons (22) | 9 |
| Accessible Stalls | Yes | 1 |
| Loading | None | None |
| Number Bike Parking Stalls | Restaurant-tavern: 5% of capacity of persons (7) | 6 |
| Landscaping and screening | Yes | Yes |
| Building Forms | Not required | Existing building |

| | |
|------------------------------------|---|
| Other Critical Zoning Items | Barrier Free (ILHR 69); Utility Easements |
|------------------------------------|---|

Tables Prepared by Jenny Kirchgatter, Assistant Zoning Administrator

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

Public Utilities and Services: This property is served by a full range of urban services, with Madison Metro Routes 4, 44, 6, and 27 all serving the site.

Previous Approvals

The property at 2 South Mills Street has been operating a beer garden on UW Football Saturdays (a non-accessory temporary outdoor event per the City's Zoning Code) since 2005. In 2010, the Plan Commission approved a conditional use for a new seasonal outdoor eating area and expanded capacity of the Football Saturday beer garden ([Legistar #19278](#)). Under that approval, the 710-square-foot seasonal outdoor eating area was established. During the winter months, when the area is unusable, the space is utilized for three automobile and six bicycle parking stalls. At this time, the applicant also received approval to expand the Football Saturday beer garden to 2,314-square-feet with a capacity of 195 persons. In 2011, the Plan Commission approved a major alteration to the conditional use to increase the capacity of the Football Saturday beer garden from 195 to 310 persons ([Legistar #23865](#)). Since that approval, the applicant has maintained this capacity in terms of people and physical area.

Project Description

The applicant, Hong Kong Café, proposes to demolish the two-story, two-unit residence at 8 South Mills Street to expand the parking lot for the restaurant-tavern and to expand their previously approved UW game day event area. Under this proposal, the capacity of the UW football Saturday beer garden would increase from 310 to 938 persons. During normal operations, the proposed parking lot will have seven vehicle parking stalls. When the outdoor eating area is not in use, the restaurant-tavern will have a total of nine vehicle parking stalls.

According to the letter of intent, the beer garden serves food, with tables and chairs available for guests. As proposed, the existing accessory building on this property will remain and be remodeled to support storage and game day functions. In the submitted land use materials, the applicant has provided a winter site plan, a summer site plan, and a football Saturday/beer garden site plan, depicting how the site will be utilized under all conditions.

Analysis and Conclusion

This proposal is subject to the approval standards for Demolition and Removal Permits and Conditional Uses.

Demolition Details & Standards

Per MGO §28.185(7), in order to approve a demolition request, the Plan Commission must find that both the requested demolition and the proposed future use are compatible with the purpose of the demolition section and the intent and purpose expressed in the Traditional Shopping Street (TSS) Zoning District. A copy of this Statement of Purpose has been included as Attachment 1. The demolition standards state that the Plan Commission shall consider and may give decisive weight to any relevant facts including impacts on the normal and orderly development of surrounding properties, and the reasonableness of efforts to relocate the building. Furthermore, the proposal should be compatible with adopted plans. Finally, the demolition standards state that the Plan Commission shall consider the report of the City's Historic Preservation Planner regarding the historic value of the property as well as any report submitted by the Landmarks Commission.

Staff believes that the demolition standards can be met with this proposal. This proposal is generally compatible with the [Comprehensive Plan \(2018\)](#) and the [Regent Street - South Campus Neighborhood Plan \(2008\)](#) recommendations for Neighborhood Mixed-Use (NMU). While the proposed demolition removes two residential units, the Plans do call for a variety of neighborhood serving uses. The [Comprehensive Plan \(2018\)](#) states that on-street parking is recommended where practical, with private off-street parking placed primarily behind buildings, underground, or shielded from view. Furthermore, the [Regent Street - South Campus Neighborhood Plan \(2008\)](#) specifies that for properties along the Regent Street Shopping District, service entrances and parking areas should

be located on the rear of the site. All service and parking areas must be appropriately lighted and visually screened by walls, fences, or landscape materials appropriate to the architectural character of the building. As proposed, parking is pulled back from Mills Street and a landscape area with masonry fence provides additional screening.

Moreover, Staff does not believe that the removal of the existing residence is anticipated to have a negative impact on either the normal and orderly development or the improvement of surrounding properties. While the Planning Division has concerns regarding the demolition of residential structures for the expansion of surface parking lots, staff believes that there are some differentiating factors with this request. First, staff notes that this proposal does not extend the commercial district into an area planned or zoned for exclusive residential use. Second, due to the size and location of the subject site, staff anticipates it unlikely that this property would develop into a mixed-use development without being part of a larger site that includes the corner property with the restaurant-tavern. As such, staff does not believe that the demolition of the residence will preclude any larger future redevelopment or building expansion on this property.

Lastly, at their October 10, 2018 meeting, the Landmarks Commission found that building has historic value related to the vernacular context of Madison's built environment or as the work of an architect of note, but the building itself is not historically, architecturally, or culturally significant.

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. As part of this proposal, the applicant requests an expansion of non-accessory temporary outdoor events (UW Football Saturday Beer Garden), which is a conditional use in the TSS Zoning District.

The applicant proposes to construct a seven stall parking lot on the property addressed at 8 South Mills Street. Conformance with adopted plans is discussed under the demolition details and standards. Conditional Use Approval Standard #4 states, "The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district." The Planning Division believes that this standard can be found met. Given that this property has commercial Zoning, and this parking lot will serve an existing and allowable use, staff does not believe that this will impact the normal and orderly development of the neighborhood.

The applicant is requesting an increase in capacity of persons (310 to 938 people) and an increase in square-footage (2,314 to 7,678 square-feet) for the football Saturday beer garden (non-accessory temporary outdoor events). The Planning Division believes that an expansion and capacity increase of the non-accessory temporary outdoor events can be found to meet the Conditional Use Standards. Standard #1 states, "The uses, values, and enjoyment of other property in the neighborhood for purposes already established will not be substantially impaired or diminished in any foreseeable manner." The applicant has provided a management plan detailing how the beer garden will operate on football Saturdays and has provided adequate screening to adjacent residential properties. As a Condition of Approval from the Fire Department, the applicant shall submit an outdoor assembly permit to the Madison Fire Department prior to any outdoor assembly events being held. Lastly, the applicant must comply with the uniform conditions applied to non-accessory temporary outdoor events for UW home football games.

The established capacity for the existing restaurant-tavern (80 persons) and seasonal outdoor eating area (64 persons) are not changing with this request. The vehicle and bicycle parking requirements, which are based on the existing capacity of the restaurant-tavern, will not be changing with this request. Therefore, in keeping with the Supplemental Regulations per MGO §28.151, staff recommends that the Plan Commission wave the off-street

parking requirements for the principal use and the non-accessory use on UW football Saturdays.

While the proposal more than doubles the capacity in terms of people and physical area, it is important to note that the applicant has been operating a beer garden on football Saturdays for 13 years with no complaints in recent years according to the Zoning Administrator. Furthermore, despite the increase in capacity of people, given the larger area the ratio of square-feet to persons for the beer garden actually increases under the new proposal from approximately 7.5 square-feet per person to approximately 8 square-feet per person. Given the food and seating component of this proposal, and the details in the management plan provided, staff believes that the proposal can meet the Conditional Use Standards. Finally, staff has recommended this area to remain subject to the "Uniform Operating Conditions" that provide consistent operating standards for all game day operations established as "non-accessory temporary outdoor events".

Public Input

At the time of report writing, staff was not aware of concerns regarding this proposal. The applicant provided a petition supporting the proposed expansion with 99 signatures to City Staff and Plan Commission members. In addition to these signatures, 31 individual letters of support from neighbors and loyal customers were also included in the land use application. Furthermore, the Greenbush Neighborhood Council requested that landscape plans for the additional parking and outdoor patio space should maintain aesthetics from the street and provide an adequate buffer to surrounding residences. Also, the Neighborhood Council requested that there be adequate staffing for game day operations to maintain safety for patrons and neighbors.

Recommendation

Planning Division Recommendation (Contact Sydney Prusak, (608) 243-0554)

The Planning Division recommends that the Plan Commission find that the standards for demolition and removal and conditional uses are met and **approve** the demolition and conditional use request demolish a two-unit dwelling and expand a parking lot and non-accessory temporary outdoor events at an existing restaurant-tavern in the Traditional Shopping Street (TSS) Zoning District at 2 & 8 South Mills. This recommendation is subject to input at the public hearing and the conditions recommended by the reviewing agencies.

Recommended Conditions of Approval

Major/Non-Standard Conditions are Shaded

Planning Division (Contact Sydney Prusak, (608) 243-0554)

1. When operating the Football Saturday beer garden, the uniform operating conditions established for stadium-area bars remain in effect for this establishment, per the attached letters. All procedures, including opening and closing times shall be consistent with the standards established in those documents. These rules supersede other conditional use approvals on the days of UW home football games and concert events as allowed per the Uniform Operating Conditions letter. During these events the parking area can be utilized for a beer garden, per the approved site plan.
2. The Plan Commission shall wave the parking requirements for the existing restaurant-tavern for all non-accessory temporary outdoor events at 2 & 8 South Mills.

Engineering Division (Main Office) (Contact Tim Troester, (608) 267-1995)

3. Prior to approval, the owner or owner's representative shall obtain a permit to plug each existing sanitary sewer lateral that serves a building which is proposed for demolition. For each lateral to be plugged the owner shall complete a sewer lateral plugging application and pay the applicable permit fees. The permit application is available on line at <http://www.cityofmadison.com/engineering/permits.cfm>. (MGO CH 35.02(14))
4. 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)
5. 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 digital CAD file shall be to scale and represent final construction. 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: 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) Private on-site sanitary sewer utilities (including all connections to public sanitary)k) 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. NOTE: Email 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.
6. 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 (East) or 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).
7. 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))
8. Submit a draft Stormwater Management Maintenance Agreement (SWMA) for review and approval that covers inspection and maintenance requirements for any BMP used to meet stormwater management requirements on this project. Include copies of all stormwater, utility, and detail plan sheets that contain stormwater practices on 8.5x14 size paper in the draft document. These drawings do not need to be to scale as they are for informational purposes only. Once City Engineering staff have reviewed the draft document and approved it with any required revisions submit a signed and notarized original copy to City Engineering. Include a check for \$30.00 made out to Dane County Register of Deeds for the recording fee. City Engineering will forward the document and fee for recording at the time of issuance of the stormwater management

permit. Draft document can be emailed to Tim Troester (west) at ttroester@cityofmadison.com, or Daniel Olivares at DAOlivares@cityofmadison.com final document and fee should be submitted to City

9. 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.
10. 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)
11. 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.
12. 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>.
13. The Applicant shall submit prior to plan sign-off, electronic copies of any Stormwater Management Files including: a) SLAMM DAT files b) RECARGA files c) TR-55/HYDROCAD/Etc d) Sediment loading calculations. If calculations are done by hand or are not available electronically the hand copies or printed output shall be scanned to a PDF file and provided. (POLICY and MGO 37.09(2))

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

14. The two parcels are currently under separate ownership. The deed providing identical ownership shall be recorded and a copy provided. Upon this being completed, the owner(s) shall contact Sally Sweeney of the City Assessor's Office and request the two tax parcels be combined into one tax parcel prior to final site plan sign off.
15. The landscaping plan shall be revised along Regent Street to move any shrubs or any portion thereof outside of the public right of way.

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

16. 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; vision triangles; 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.
17. 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.

18. 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.
19. All parking facility design shall conform to MGO standards, as set in section 10.08(6).
20. 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 at a distance of 25 feet behind the property line at streets and 10 feet at driveways.). Alteration necessary to achieve compliance may include but are not limited to; substitution to transparent materials, removing sections of the structure and modifying or removing landscaping elements. If applicant believes public safety can be maintained they shall apply for a reduction of MGO 27.05(2)(bb) - Vision Clearance Triangles at Intersections Corners. Approval or denial of the reduction shall be the determination of the City Traffic Engineer.
21. "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.
22. The applicant shall show the dimensions for the proposed class III driveway including the width of the drive entrance, width of the flares, and width of the curb cut.
23. Include a parking plan demonstrating how specific stalls, to be used by the commercial site, will be reserved. Include any signage to be used to achieve this goal in the submitted plans.
24. The applicant shall close the Mills Street driveway on the Game Day Site Plan by providing a temporary fence to protect pedestrians.

Zoning (Contact Jenny Kirchgatter, (608) 266-4429)

25. Section 28.185(7)(a)5. requires that if a demolition or removal permit is approved, it shall not be issued until the reuse and recycling plan is approved by the Recycling Coordinator, Bryan Johnson (608-266-4682).
26. Section 28.185(10) Every person who is required to submit a reuse and recycling plan pursuant to Section 28.185(7)(a)5. shall submit documents showing compliance with the plan within sixty (60) days of completion of demolition.
27. Section 28.185(9)(a) A demolition or removal permit is valid for one (1) year from the date of the Plan Commission.
28. Note that a recent Zoning Text Amendment to the supplemental requirements Section 28.151 for Non-Accessory Temporary Outdoor Events allows events located in the TSS district to expand onto lots that are within 50 feet of a residential district as long as the event itself was established prior to January 3, 2013.
29. The established capacity for the existing restaurant-tavern (80) and seasonal outdoor eating area (64) are not changing with this request. The vehicle and bicycle parking requirements which are based on the existing capacity of the restaurant-tavern will not be changing with this request. Note that per the supplemental regulations Section 28.151 for non-accessory temporary outdoor events, the Plan Commission may waive or modify the off-street parking requirements for the principal use and the non-accessory use.

30. 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.
31. Exterior lighting provided shall be in accordance with City of Madison General Ordinances Section 10.085. Provide an exterior lighting plan and fixture cut sheets with the final plan submittal.
32. 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.

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

33. Please consider allowing Madison Fire Dept. to conduct training sequences prior to demolition. Contact MFD Training Division to discuss possibilities: Division Chief Tracy Burrus at tburrus@cityofmadison.com or (608)266- 5959.
34. An outdoor assembly permit is required to be submitted to Madison Fire Department prior to any outdoor assembly events being held.