



Report to the Plan Commission

August 29, 2011

Legistar I.D. #22434
4325 Lien Road
Conditional Use

Report Prepared By:
Kevin Firchow, AICP
Planning Division

Requested Action: Approval of a conditional use to operate an outdoor eating area in an existing patio for a restaurant and tavern.

Applicable Regulations & Standards: Section 28.12 (11) provides the guidelines and regulations for the approval of conditional uses. Section 28.09(3)(d)2 identifies outdoor eating areas of restaurants and taverns as conditional uses.

Summary Recommendation: The Planning Division recommends that the Plan Commission find that the conditional use standards are met and **approve** the conditional use request to operate an outdoor eating area in an existing patio at 4325 Lien Road, subject to input at the public hearing and the conditions from other reviewing agencies.

Background Information

Applicant: Dale and Debra Wells; My Buddies LLC; 4325 Lien Road; Madison, WI 53704

Contact: Martin Cue; 15 Apostle Island; Madison, WI 53719

Property Owner: Capitol Real Estate; 26 Schroeder Court; Madison, WI 53711

Proposal: The applicant proposes to operate an outdoor eating area on an existing patio. A previous approval to allow outdoor eating on this patio has expired. The applicant wishes to proceed as soon as all necessary approvals have been granted. Please note, this proposal has been revised from the applicant's original submittal. The request to install and operate seasonal sand volleyball courts is no longer part of this application.

Parcel Location: The subject property is a 39,953 square foot (0.92-acre) parcel on Lien Road, part of the East Prairie Commons planned commercial site that includes the east side Target. The property is within Aldermanic District 17 and the Madison Metropolitan School District.

Existing Conditions: The subject site includes a vacant restaurant building located within a larger planned commercial site.

Surrounding Land Use and Zoning:

North: Commercial development surrounding East Towne Mall, zoned C3L (Highway Commercial and Distribution District);

South: Balance of this planned commercial site, zoned C3 (Highway Commercial) with wetlands, beyond;

East: Surface parking lot that is part of this planned commercial site with the nearest residential properties over 1,500 square feet beyond; and

West: Balance of the planned commercial site, with two residential properties zoned C3, beyond.

Adopted Land Use Plan: The Comprehensive Plan recommends general commercial uses for this site.

Environmental Corridor Status: This property is not located within a mapped environmental corridor.

Public Utilities and Services: This property is served by a full range of urban services.

Zoning Summary: The property is zoned C3 (Highway Commercial District)

Bulk Requirements	Required	Proposed
Lot Area	6,000 sq. ft.	Existing/adequate
Lot width	50'	Existing/adequate
Front yard	0'	Adequate
Side yards	0'	Adequate
Rear yard	10'	Adequate
Floor area ratio	3.0	less than 1.0
Number parking stalls	(30% of capacity) Capacity set at 221 - 66	21 onsite/ 81 adjacent to site at 4401 Lien Road – 102 total
Accessible stalls	3	5 existing (See Comment #6)
Loading	Yes	Existing
Number bike parking stalls	10	14 existing (See Comment #7)
Landscaping	Yes	Yes (See Comment #13)
Lighting	Yes	Yes (See Comment #12)
Other Critical Zoning Items	Planned comm. site may require administrative review, utility easements, Barrier Free ILHR 69	

Table prepared by Patrick Anderson, Assistant Zoning Administrator

Project Description

The applicant, My Buddies LLC, requests conditional use approval to re-establish a previously-approved outdoor eating area for a restaurant/tavern. A similar outdoor eating area was approved in 2001 for a different restaurant operator, though that approval has since expired. No site plan changes are proposed. This request is subject to the conditional use standards of Section 28.12 (11) of the Zoning Ordinance.

This is a revised request. On May 16, 2011, the Plan Commission referred consideration of the original application to a future meeting, at the applicant’s request. Along with the aforementioned outdoor eating area, the original application also requested approval to install and operate two seasonal outdoor sand volleyball courts. The volleyball component has been removed from this request.

The subject site is on the eastern edge of the “East Prairie Commons” commercial development. That development includes a Target store along with several other retail tenants. The nearest residential properties are two single-family homes located on C3 (Highway Commercial District) zoned properties, the closet being 950 feet west of the proposed outdoor eating area. Other residential development is roughly ¼ mile away, much of it separated by open space and wetlands.

The proposed outdoor eating area is adjacent to the north side of the building on an existing patio. Plans show eight tables (with four seats apiece) with a capacity of 32 seats. The final capacity requires approval by City Building Inspection staff. The outdoor eating area would be open from 10:00 am until 2:00 am. The applicant has received the necessary approvals from the Common Council regarding the alcohol license, and alcohol can be served on the patio per that approval. That approval included a

condition that alcohol sales at this establishment (including the outdoor patio) shall cease two hours prior to the statutory bar time. Approval of this conditional use would not alter that previously approved condition.

Staff was not aware of any neighborhood concerns on these requests at the time of report writing. The proposal is not in conflict with the recommendations of the Comprehensive Plan. Staff do not anticipate the project will negatively impact surrounding properties and believe the conditional use standards can likely be met.

Recommendations and Proposed Conditions of Approval

Major/Non-Standard Conditions are Shaded

Planning Division Recommendation (Contact Kevin Firchow, 267-1150)

The Planning Division recommends that the Plan Commission find that the conditional use standards are met and **approve** the conditional use request to operate an outdoor eating area in an existing patio at 4325 Lien Road, subject to input at the public hearing and the conditions from other reviewing agencies.

1. That City Building Inspection approves the capacity of the proposed outdoor eating area.

City Engineering Division (Contact Janet Dailey, 261-9688) *

2. Portions of the proposed volleyball courts do not appear to be on property owned by the applicant: My Buddies, LLC. Please provide recorded land ownership deeds or recorded land lease.
3. Existing recorded Declaration of Operation and Reciprocal Easement Document No. 2759228 as well as three different amendments (Document Nos. 2802993, 2803538 and 3092166) contain certain conditions and language defining the shared tenants and uses of the existing Planned Commercial Site. There may need to be modifications to these existing documents as well as application involvement by all other tenants affected by this proposal.
4. If necessary, the applicant shall further filter stormwater leaving the site by using silt sock downstream of the volleyball courts.
5. The final site plan shall include all existing property and right-of-way lines as well as reference to the recorded documents of any necessary instruments further amending the Declaration of Operation and Reciprocal Easement.

* Note, these comments were provided for the applicant's original application that also requested approval to operate sand volleyball courts. Revised comments were not provided by this agency.

Traffic Engineering Division (Contact Bryan Walker, 267-8754)

This agency does not have any comments on the revised request.

Zoning Administrator (Contact Pat Anderson, 266-5978)

6. Parking requirements for persons with disabilities must comply with City of Madison General Ordinances Section 28.11 (3) 6.(m) which includes all applicable State accessible requirements, including but not limited to:
 - a. Provide the minimum for accessible stalls striped per State requirements. A minimum of one of the stalls shall be a van accessible stall 8' wide with an 8' striped out area adjacent.
 - b. Show signage at the head of the stalls.
 - c. Show the accessible path from the stalls to the building.
7. Bike parking shall comply with City of Madison General Ordinances Section 28.11.
8. Provide ten (10) bike parking stalls in a safe and convenient location on an impervious surface to be shown on the final plan. The bike racks shall be securely anchored to the ground or building to prevent the racks from moving. NOTE: A bike-parking stall is two feet by six feet with a five-foot access area.
9. Meet applicable building/fire codes for the additional outdoor capacity and for ingress and egress of the establishment with both of the proposed outdoor occupancy areas and at the site. Occupancy is established by the Building Inspection Unit. Contact Mike VanErem at 266-4559 to help facilitate this process.
10. Contact the City Clerk regarding changes to licensed areas, should you choose to serve food/drink or alcohol in the outdoor areas.
11. Signage approvals are not granted by the Plan Commission. Signage must be reviewed for compliance with Chapter 31 of the Madison General Ordinances. Sign permits must be issued by the Zoning Section of the Department of Planning and Community and Economic Development prior to sign installations. Banners, Pennants, temporary signs, portable signs etc. are not approved as a part of this project.
12. 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, showing at least .5 foot candle on any surface on any lot and an average of .75 foot-candles. The maximum light trespass shall be 0.5 fc at 10 ft from the adjacent lot line.
13. Parking lot plans with greater than twenty (20) stalls shall comply with City of Madison General Ordinances Section 28.04 (12). Landscape plans must be stamped by a registered landscape architect. Provide a landscape worksheet with the final plans that shows that the landscaping provided meets the point and required tree ordinances. In order to count toward required points, the landscaping shall be within 15' and 20' of the parking lot depending on the type of landscape element. (Note: The required trees do not count toward the landscape point total.) Planting islands shall consist of at least 75% vegetative cover, including trees, shrubs, ground cover, and/or grass. Up to 25% of the island surface may be brick pavers, mulch or other non-vegetative cover. All plant materials in islands shall be protected from vehicles by concrete curbs.

Fire Department (Contact Bill Sullivan, 261-9658)

14. The Madison Fire Department does not object to this project provided exiting complies with all Building and Fire Codes.

Water Utility (Contact Dennis Cawley, 261-9243)

15. This property is not in a Wellhead Protection District. All wells located on this property shall be abandoned if no valid well operation permit has been obtained from the Madison Water Utility. The Water Utility will not need to sign off the final plans, nor need a copy of the approved plans.

Metro Transit (Contact Tim Sobota, 261-4289)

This agency did not submit a response for this request.