



## Report to the Plan Commission

April 22, 2013

**Legistar ID # 29444**

**514 East Wilson Street**

**Alteration to an Approved PUD-SIP**

Report Prepared By:

Kevin Firchow, AICP

Planning Division

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**Requested Action:** Approval of a PD-SIP (Planned Development-Specific Implementation Plan) alteration to establish an outdoor recreation area for a restaurant/tavern.

**Applicable Regulations & Standards:** Section 28.098 (6) provides the regulations for the approval of alterations to Planned Developments.

**Summary Recommendation:** The Planning Division recommends that the Plan Commission find the project meets the applicable standards and **approve** the request for a Planned Development (Planned Development-Specific Implementation Plan) alteration to establish an outdoor recreation area for a restaurant/tavern, subject to input provided at the public hearing and conditions from the Planning Division and other reviewing agencies.

### **Background Information**

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**Applicant / Contact / Property Owner:** Robert Worm; Essen Haus; 514 E Wilson St; Madison, WI 53703

**Proposal:** The applicant proposes to seasonally remove 16 parking stalls and install a sand volleyball court in the parking lot behind the Essen Haus restaurant. The applicant desires to begin volleyball in May. The letter of intent states this request is intended to be valid through September 2013. At that time, the applicant agrees to return to the Plan Commission to extend the use for future years.

**Parcel Location:** The 2.4 acre subject site is part of a Planned Development bounded by East Wilson Street, South Franklin Street, and South Butler Street. The site is within Aldermanic District 6. Portions of this Planned Development are split between the First Settlement Local Historic District and the Third Lake Ridge Local Historic District. The volleyball court would be within the First Settlement portion of this site. The site is also within the limits of the Madison Metropolitan School District.

**Existing Conditions:** The Planned Development includes the Essen Haus, Come Back In, and the Germania Condominiums which front on South Franklin Street and back onto the subject site. Surface parking is provided to the rear of these buildings.

### **Surrounding Land Use and Zoning:**

**North:** Residential development ranging from single and two-family homes to larger structures including the Franklin Street Condominiums. Sites are zoned DR-1 (Downtown Residential 1) and PD (Planned Development);

**South:** East Wilson Street and its intersection with John Nolen Drive and Williamson Street, beyond;

**East:** Madison Gas and Electric Office, zoned TE (Traditional Employment); and

**West:** The Germania Condominiums, zoned PD, with other uses residential beyond.

**Adopted Land Use Plan:** The Comprehensive Plan includes the subject site within the First-Settlement-Old Market Place sub-district of Downtown. The Downtown Plan similarly includes the site within the First Settlement District. Neighborhood serving commercial uses and mixed use buildings with dining and entertainment are among the recommended uses.

**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.

**Zoning Summary:** The site is now zoned Planned Development (PD) The applicant is proposing to amend the zoning text to allow seasonal sand volleyball.

## **Project Review, Analysis, and Conclusion**

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The applicant, the Essen Haus restaurant, requests approval of a Planned Development alteration to allow seasonal sand volleyball in the parking lot behind the restaurant.

As a Planned Development, permitted uses are defined in the site-specific zoning text. Sand volleyball is not currently listed as an allowed use. The applicant's proposed zoning text adds "Seasonal Outdoor Volleyball as shown on approved plan" to the permitted use list. Staff recommends this be revised and listed as a conditional use. Outdoor sand volleyball courts in non-planned development sites are approved as conditional uses. As a conditional use, the Plan Commission has "continuing jurisdiction" to resolve complaints that are raised against the use. For example, the Plan Commission could revise or add conditions of approval that it finds necessary for the use to meet the conditional use standards, should future concerns arise. Since there are several residences in relatively close proximity, staff believes this may be beneficial.

A letter of intent and a proposed management plan titled "Volleyball at Essen Haus" is attached. Plans show that 16 parking stalls would be seasonally converted into one sand volleyball court. This seasonal improvement would run from May 12 through September 8, this year. The proposed hours of operation for sand volleyball operation are from 5:30 pm to 10:30 pm Monday through Friday and from 12:00 pm until 9:00 pm on Sundays. The applicant has requested a revision to the submitted operating plan and also wishes to operate volleyball on Saturdays, with the courts closing at 9 pm.

No extra speakers or sound producing devices will be added. To address sound concerns from neighbors, the applicant proposes to install a heavy mesh banner on the west and north sides of the court, in an attempt to focus sound away from the nearest residences. Staff believes it is a good effort and worth installing, though considering that the parking lot sits below the nearby condominium units, staff does not know how effective the screen will be in completely deflecting sound.

Two additional lights will be added onto existing poles. Planning Division staff requests approval of the fixture cut sheets and the lighting plan to ensure lighting is directed towards the court and has limited spillover, as noted in the management plan. The court itself will be lined with a large "sock" to retain the sand. Engineering has requested further detail as a condition of approval. A nine foot tall net will be installed surrounding the entire court perimeter to keep volleyballs from leaving the playing area.

The applicant has met with the adjacent condominium residents and has agreed to pursue this approval on a one-year trial basis. As proposed, the applicant could return to the Plan Commission to request an extension for 2014 (and beyond).

At the time of report writing, staff had not received any other comments on this proposal. Staff believes with the alteration, the project would still meet the Planned Development standards and recommends approval subject to the recommended conditions.

## **Recommendation and Proposed Conditions of Approval**

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Major/Non-Standard Conditions are Shaded

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

The Planning Division recommends that the Plan Commission find the project meets the applicable standards and **approve** the request for a Planned Development (Planned Development-Specific Implementation Plan) alteration to establish an outdoor recreation area for a restaurant/tavern, subject to input provided at the public hearing and conditions from the Planning Division and other reviewing agencies.

1. That the zoning text be revised to add "Seasonal Outdoor Volleyball as shown on approved plans" as a conditional use. This will provide the Plan Commission "continuing jurisdiction" to resolve complaints against the seasonal outdoor volleyball, consistent with the process defined in Section 28.183(9)(c).
2. That a lighting plan and fixture cut sheets be provided for staff approval.
3. As stated in the letter of intent/management plan: That this approval is valid for 2013 only. Should the applicant wish to operate this use in 2014 (or beyond), the applicant shall apply to the Plan Commission for an extension of this use. This condition shall be added to the Zoning Text. The revised Zoning Text shall be provided for staff approval.
4. As stated in the letter of intent/management plan: That this use may be operated from May 12 through September 8, 2013.
5. As stated in the letter of intent/management plan: That no additional outdoor amplified sound, or similar sound producing devices, shall be added as part of this approval.
6. As stated in the letter of intent/management plan: That hours of operation for the sand volleyball court shall be from 5:30 pm – 10:30 pm Monday through Friday and from Noon-9:00 pm on Saturdays and Sundays.
7. As stated in the letter of intent/management plan: That the applicant shall install a mesh barrier on the west and north sides of the court.

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

1. A detailed erosion control plan and associated permit shall be required prior to sign off.
2. Proposed Volleyball Court is on parking lot on parcel 0709-133-1727-2; 134 S Blair St.
3. The applicant shall submit, prior to plan sign-off, digital PDF files to the Engineering Division (Jeff Benedict or Tim Troester). 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) Lot lines and right-of-way lines; e) Street names; f) Stormwater Management Facilities; and g) Detail drawings associated with Stormwater Management Facilities (including if applicable planting plans).

**Traffic Engineering Division** (Contact Eric Halvorson, 266-6572)

4. Applicant shall provide physical barrier between backing parked vehicles and volleyball court area.
5. As stated in the management plan, the applicant shall install a mesh barrier on the west and north sides of the court.

**Zoning Administrator** (Contact Pat Anderson, 266-5978)

6. 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.
7. Contact the City Clerk regarding changes to licensed areas, should you choose to serve food/drink or alcohol in the outdoor areas.
8. 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.
9. 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.

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

10. MFD does not object provided existing fire access is maintained.

**Water Utility** (Contact Dennis Cawley, 261-9243)

11. All wells located on this property shall be abandoned if no valid well operation permit has been obtained from the Madison Water Utility. This property is in wellhead protection district WP-17. This use is permitted in this district. Any proposed change in use shall be reviewed by the Water Utility General Manager or his designated representative. The Water Utility will not need to sign off the final plans, and will not need a copy of the approved plans.

**Parks Division** (Contact Kay Rutledge, 266-6518)

This agency did not submit a response to this request.

**Metro Transit** (Contact Tim Sobota, 261-4289)

This agency did not submit a response to this request.