



## Report to the Plan Commission

June 15, 2009

Legistar I.D. #15038  
2609 East Washington Avenue  
Conditional Use

Report Prepared By:  
Heather Stouder, AICP  
Planning Division Staff

**Requested Action:** Approval of a conditional use for an outdoor eating and drinking area at a tavern in the C2 (General Commercial) District.

**Applicable Regulations & Standards:** Section 28.12(11) provides the guidelines and regulations for the approval of conditional uses. Outdoor eating areas are conditional uses in the C2 District per Sec. 28.09(3)(d).

**Summary Recommendation:** The Planning Division recommends that the Plan Commission find that the conditional use standards can be met and **approve** the conditional use request subject to input at the public hearing and conditions from reviewing agencies.

### Background Information

**Applicant/Project Contact:** William Rogers; Brewer's Showcase, Inc.; 2609 E Washington Ave.; Madison  
**Property Owner:** McGrath Associates; 102 N. Hamilton; Madison

**Proposal:** The applicant proposes the use of an outdoor patio for beverage service at an existing tavern, and hopes to begin service when all approvals are obtained.

**Parcel Location:** 2609 East Washington Avenue is a 16,180 square foot parcel located on the southeast corner of East Washington Avenue and Milwaukee Street; Aldermanic District 15 (Palm); Madison Metropolitan School District.

**Existing Conditions:** The site is currently developed with a one-story tavern, formerly the Union House Tavern. An approximately 8,500 square foot surface parking lot is located in the eastern portion of the site.

### Surrounding Land Use and Zoning:

North: Mixed-use building with a first floor commercial space and three second floor residential units

East: Two mixed-use buildings, each with a commercial tenant and one residential unit, in the C2 (General Commercial) district.

South: Across the recently realigned Milwaukee Street, undeveloped land in the PUD(SIP) district for the "Union Corners" development, a mix of employment, retail, and residential uses.

West: Across East Washington Avenue, a multi-tenant commercial building in the C2 (General Commercial) district.

**Adopted Land Use Plan:** The Comprehensive Plan (2006) recommends Community Mixed-Use for this site. The Schenk-Atwood-Starkweather-Worthington Park Neighborhood Plan (March 2000) includes several recommendations for enhancing the East Washington Avenue Corridor and this particular intersection, many of which have been addressed with recent public improvements. There are no specific land use recommendations for the subject site.

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

**Public Utilities and Services:** This property is served by a range of urban services, including all basic utilities and several Metro Transit Routes.

**Zoning Summary:**

Bulk Requirements	Required	Proposed
Lot Area	6,000 sq. ft.	5,412.5 sq. ft. (existing)
Lot width	50'	adequate
Usable open space	N/A	N/A
Front yard	0'	existing
Side yards	0'	existing
Rear yard	20'	adequate
Floor area ratio	N/A	N/A
Building height	3 stories / 40'	1 story

Site Design	Required	Proposed
No. Parking stalls	grandfathered	
Accessible stalls	1	see comment 12, p. 5
Loading	N/A	N/A
No. Bike Parking Stalls	2	see comment 13, p. 5
Landscaping	as shown	adequate
Lighting	No	see comment 16, p. 5

Other Critical Zoning Items		
Urban Design		Yes
Historic District		No
Landmark Building		No
Floodplain		No
Utility Easements		No
Waterfront Development		No
Adjacent to park		No
Barrier Free (ILHR 69)		Yes
Prepared by: Pat Anderson, Asst. Zoning Administrator		

**Project Description**

The applicant is requesting a conditional use for an outdoor eating and drinking area for an existing tavern in the C2 (General Commercial) district. As proposed, improvements for the outdoor seating area are temporary in nature, involving three picnic tables, four chairs, and potted plants surrounded by a moveable aluminum fence. Other proposed changes to the site include the addition of a second bicycle parking rack located to the west of the proposed outdoor eating area, and the addition of five small shrubs on the southern side of the building near the main entrance. No changes to the exterior of the building or the existing surface parking lot are proposed at this time.

With the addition of the outdoor eating area, the existing 90-person capacity for the building would remain the same overall, and the proposed seating arrangement suggests an outdoor capacity for 20-25 of the total patrons. The applicant has requested that the outdoor patio remain open until the business closes at bar time, which would allow the business to remain open until 2:00AM on weekdays and 2:30AM on weekend days.

## Evaluation and Conclusion

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The proposed outdoor eating and drinking area is consistent with the Comprehensive Plan, which recommends Community Mixed Use for this site, and the Schenk-Atwood-Starkweather-Worthington Park Neighborhood Plan, which has no specific recommendation for the site.

While the property lies within Urban Design District 5, Planning Division staff believes that the temporary site changes proposed do not trigger review by the Urban Design Commission (UDC). Any permanent changes proposed to the site, surface parking lot, or building exterior in the future will warrant review by the UDC, and may involve significant landscaping in and around the parking lot, among other design considerations.

The proposed additional bicycle rack adjacent to the outdoor eating area may not meet city standards for bicycle parking, which require that bicycle parking facilities must be securely anchored to the ground or building and accommodate U-shaped locking devices. Planning Division staff believe that the provision of additional bicycle parking over and above the two stalls required is advantageous for this site. However, the applicant should work with staff to finalize the design and location of bicycle parking to ensure that all applicable standards are met.

With its relatively low capacity, the proposed outdoor eating and drinking area is unlikely to cause high levels of noise. The adjacent property to the east, with one residential unit, is the most likely to be affected by any late night noise, and is approximately 140 feet away from the patio. Other residential units nearby are buffered either by buildings or by East Washington Avenue. At the time of this writing, Planning Division staff is unaware of any objections to the proposal by neighbors. In this instance, the Planning Division recommends that outdoor amplified sound be prohibited after 10:00 PM, but does not object to the hours of operation proposed, whereby the patio would close at the same time as the interior space. Following input during the public hearing, it may be appropriate for the Plan Commission to consider an additional condition to limit the hours of operation.

The Planning Division is aware of one concern that the applicant has with conditions of approval Nos. 4-8 recommended by Traffic Engineering. Because of the minor, temporary nature of the improvements in the area south of the building, the applicant has indicated that they do not believe that these improvements warrant the requirement to bring the entire parking lot, located east of the building, up to code. As a lessee of the space, the applicant will be unable to move forward with the proposed outdoor eating area if approved with recommended conditions Nos. 4-8. The Plan Commission will need to consider and determine whether the imposition of these requirements is warranted and must be conditions of approval for the conditional use requested.

In conclusion, the Planning Division believes that the conditional use standards can be met with this request, and recommends that the Plan Commission approve it subject to input at the public hearing.

## Recommendations and Proposed Conditions of Approval

### Major/Non-Standard Conditions are shaded

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#### **Planning Division Recommendation** (Contact Heather Stouder, 266-5974)

The Planning Division recommends that the Plan Commission find that the conditional use standards can be met and **approve** the conditional use request subject to input at the public hearing. The following conditions of approval have been recommended by reviewing agencies:

1. Outdoor amplified sound on the patio is prohibited after 10:00 PM.
2. The applicant shall submit details on the proposed bicycle racks in the final plan set for staff review, and may work with staff on the design and location of bicycle parking prior to submitting the final plan set.
3. The Plan Commission retains continuing jurisdiction over the approval of this conditional use. If complaints are received related to late-night noise on the outdoor patio in the future, the Plan Commission may further restrict the hours of operation.

#### ***The following conditions have been submitted by reviewing agencies:***

#### **Traffic Engineering Division** (Contact John Leach, 267-8755)

4. When the applicant submits final plans for approval, the applicant shall show the following: items in the terrace as existing (e.g., signs and street light poles), type of surfaces, existing property lines, addresses, one contiguous plan (showing all easements, all pavement markings, building placement, and stalls), signage, percent of slope, vehicle routes, dimensions of radii, aisles, driveways, stalls including the two (2) feet overhang, and a scaled drawing at 1" = 20'.
5. The applicant shall modify the gravel areas to bituminous, or Portland Cement concrete in accordance with City of Madison standards and specifications. All off-street facilities shall be paved in accordance to City of Madison General Ordinance Section 10.08(6)(a) 10. The applicant shall note type of pavement in the parking lot.
6. The applicant shall design the surface parking area for stalls and backing up according to Figure II of the ordinance using the 9' or wider stall for the commercial/retail area. The applicant shall dimension the parking spaces according to M.G.O.
7. The parking facility shall be modified to provide for adequate internal circulation for vehicles. This can be accommodated by eliminating a parking stall at the dead ends. The eliminated stall shall be modified to provide a turn around area ten (10) to twelve (12) feet in width and signed "No Parking Anytime."
8. Public signing and marking related to the development may be required by the City Traffic Engineer for which the developer shall be financially responsible.
9. The applicant shall indicate the type of bicycle racks to be installed (please contact Arthur Ross, City Traffic Engineering at 266-4761 with questions regarding this item).
10. A "Stop" sign shall be installed at a height of seven (7) feet at the driveway approach. All signs at the approaches shall be installed behind the property line. All directional/regulatory signage and pavement markings on the site shall be shown and noted on the plan.
11. The intersection shall be so designed so as not to violate the City's sight-triangle preservation requirement which states that on a corner lot no structure, screening, or embankment of any kind shall be erected, placed, maintained or grown between the heights of 30 inches and 10 feet above the curb level or its equivalent within the triangle space formed by the two intersecting street lines or their

projections and a line joining points on such street lines located a minimum of 25 feet from the street intersection in order to provide adequate vehicular vision clearance.

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

12. Meet all applicable State accessibility requirements, including but not limited to:
  - a. Show signage at the head of the accessible stalls. Accessible signs shall be a minimum of 48" between the bottom of the sign and the ground.
  - b. Show the accessible path from the stalls to the building. The stalls shall be as near the accessible entrance as possible. Show ramps, curbs, or wheel stops where required.
13. Provide a minimum of two 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.
14. Within 10' from a driveway crossing of a street lot line, any landscaping/screening shall not exceed 2' in height for vision clearance. No landscape elements shall be maintained between the heights of 30 inches and 10 feet above the curb level within the 25' vision triangle of the street corner.
15. If you have a license to sell alcohol in an outdoor eating area, the Alcohol License Review Committee has established conditions for operation for these applications that involve fencing, security guards, toilet facilities, litter, etc. All businesses that sell alcohol must comply with the requirements imposed by the Alcohol License Review Committee at the time of issuance of your original application to expand or change your licensed premises to include the outdoor eating area.
16. Lighting is not required. However, if it is provided for the commercial/retail portion of the parking, it must comply with City of Madison outdoor lighting standards (see parking lot packet). Lighting will be limited to .08 watts per square foot.

**Fire Department** (Contact Scott Strassburg, 261-9843)

17. Per the International Fire Code (IFC) Chapter 10 and MGO 34, the applicant shall submit an approved capacity with the site plan and post the capacity of the fenced in area in accordance IFC 2006 edition.
18. The proposed outdoor fenced in area shall not be located at, adjacent to or obstruct the required exits from the building.
19. The applicant shall provide and maintain exits from the outdoor eating area in area in accordance with the IFC 2006 edition.
20. The applicant shall submit a seating plan for the proposed fenced in area.

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

This agency submitted a response for this request with no comments.

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

This agency did not submit a response for this request.

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

This agency did not submit a response for this request.