



Report to the Plan Commission

March 22, 2010

Legistar I.D. #17824

924 Williamson Street ("Plan B")

Alterations to an Approved Conditional Use

Report Prepared By:
Kevin Firchow, AICP
Planning Division

Requested Action: The applicant requests approval of three alterations to an approved conditional use: 1) the installation of a new screening fence; 2) the creation of an enclosed outdoor smoking area; and 3) approval of an additional 15-stall parking reduction to accommodate an increase in capacity.

Applicable Regulations & Standards: Section 28.12 (11) provides the guidelines and regulations for the approval of conditional uses.

Summary Recommendation: Subject to input at the public hearing, The Planning Division recommends that the Plan Commission find the conditional use standards are met and **approve** the requested alterations to an approved conditional use. This recommendation is subject to conditions recommended by the Planning Division and other reviewing agencies:

Background Information

Applicant: Corey Gresen & Rico Sabatini; Getisman Investments, LLC; 20 W. Blair Street #302; Madison, WI 53703

Agent / Contact: Rico Sabatini; 3923 Claire Street; Madison, WI, 53714

Property Owner: Chvala Ventures, Inc; 44 East Mifflin Street; #802; Madison, WI 53703

Proposal: The applicant proposes three alterations to an approved conditional use: 1) the installation of a new screening fence; 2) the creation of an enclosed outdoor smoking area; and 3) approval of an additional 15-stall parking reduction to accommodate an increase in capacity.

Parcel Location: The subject site is approximately ½-acre in area on the north side of Williamson Street, mid-block between Paterson and Brearly Streets. The site is located in Aldermanic District 6; Madison Metropolitan School District; and the Third Lake Ridge Historic District.

Existing Conditions: The site includes the Plan B night club. A conditional use allowing a parking reduction was approved in March 2009.

Surrounding Land Use and Zoning:

North: Office buildings; zoned C2 (General Commercial District);

South: Small mixed-use buildings, single-family residences, and two-family residences across Williamson Street; zoned C2 (General Commercial District);

West: Mixed-use Building; zoned C2 (General Commercial District);and

East: Two-flat residence; zoned C2 (General Commercial District).

Adopted Land Use Plan: The Comprehensive Plan recommends community mixed use for this site. This general area is also recommended for transit-oriented developments.

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 property is zoned C2 Historic (Third Lake)

Requirements	Required	Proposed
Lot Area	6,000 sq. ft.	31,091 sq. ft. existing
Lot width	50'	adequate
Front yard	0'	0'
Side yards	0'	Existing
Rear yard	10'	10' to proposed addition
Floor area ratio	2.0	Less than 2.0
Number parking stalls	90	17 provided, 73 stall reduction (additional 15 stall reduction approved in 3/2009)
Accessible stalls	1	2 (See Comment # 17)
Loading	1 (10' x 35')	1
Number bike parking stalls	9 - based on a 90 stall requirement	16
Landscaping	Yes	See Comment # 15
Lighting	Yes	See Comment # 16
Other Critical Zoning Items	3 rd Lake Ridge Historic District, Barrier Free (ILHR 69)	
	<i>Prepared by: Matt Tucker, Zoning Administrator</i>	

Previous Approvals & Project History

The Plan Commission approved a conditional use allowing a parking stall reduction in March 2009. In September 2009, the owner of the adjacent two-flat residence, John Rolfsmeyer, submitted a complaint regarding the lack of parking lot screening and other operational issues. This complaint was submitted referencing the "continuing jurisdiction" authority of the Plan Commission. Prior to this complaint coming before the Plan Commission, Mr. Rolfsmeyer requested the complaint be referred as he was working with Plan B to address the concerns.

In working with the complainant, Plan B agreed to provide a solid wood fence to provide additional screening between the parking lot and Mr. Rolfsmeyer's two-flat building. Revised plans with a solid wood fence along the property line were submitted for "minor-alteration" approval. Mr. Rolfsmeyer contacted Planning and Zoning staff with concerns over the placement of the fence, noting his preference to have the fence located closer to the edge of the parking lot and away from the property line. More recent correspondence states he would like the fence to be located at least four and one-half feet (4 feet, 6 inches) from the property line.

Considering the disagreement on the fence location, staff decided it was not appropriate to consider the request administratively and referred the item to the Plan Commission for consideration. Since that time, Plan B has also requested consideration of the aforementioned smoking enclosure and most recently, an additional parking stall reduction. All three items are now before the Plan Commission.

Project Summary and Analysis

The alterations before the Plan Commission include: 1) the installation of a new screening fence; 2) the creation of an enclosed outdoor smoking area; and 3) approval of an additional 15-stall parking reduction to accommodate an increase in capacity. Application information can be viewed online from the following site: <http://www.cityofmadison.com/planning/projects/conditional/924ws2.html>

New Screening Fence

The 2009 approval required screening to be approved by staff and did not specify the inclusion of a wooden fence. The site plan approved by staff included a row of vegetative screening within the 36-foot-wide side yard. The particular species was cranberry bush viburnum, a species commonly used to screen parking lots. These plantings were installed in the fall of 2009. The Plan B representatives, Mr. Rolfsmeyer, and the Planning Division concur that the inclusion of a wooden fence will improve the effectiveness of the screening between the parking lot and adjoining two-flat.

The primary issue regarding the fence is its location. As proposed, the six (6)-foot tall wooden privacy fence would be constructed six (6) inches from the property line. Plans indicate the fence would run the entire depth of the site, from the sidewalk to the rear property line. Mr. Rolfsmeyer's two-flat residential building is located 2.9 feet (2 feet, 10.8 inches) from the property line and 3.4 feet (3 feet, 4.8 inches) from the proposed fence. Earlier correspondence from Mr. Rolfsmeyer had requested the fence be placed at the edge of the parking lot, roughly 36 feet from the property boundary. He has since provided correspondence recommending the fence be moved at least four (4) feet, six (6) six inches from the property line. This would shift the fence four feet to the east from where it is currently proposed. The Zoning Administrator indicates that the proposed fence location at the property line would be permissible for a permitted use. As a conditional use, however, the Plan Commission could recommend an alternative location should it find it necessary to meet the conditional use standards.

Staff believe that providing some additional distance between the fence and property line may be beneficial to allow Plan B adequate room for fence maintenance or potential graffiti removal. Mr. Rolfsmeyer has also indicated several reasons for which he wants to see the fence relocated. One reason is to create further physical separation between his residence and bar patrons in the parking lot. He also notes that as proposed, the fence would limit his tenants' access to the rear yard. Finally, he notes the need to maintain additional space to allow for room to maintain his residence. Staff note that approving the fence away from the property line would not provide Mr. Rolfsmeyer (or his tenants) any rights to utilize or trespass on the Plan B property. The issue of securing maintenance easements to allow such access would need to be worked out between the property owners.

Staff believe that either fence location would similarly increase site screening and limit trespassing onto Mr. Rolfsmeyer's property. The key decision for the Plan Commission is to determine whether shifting the fence away from a more-conventional property-line location is necessary to meet the applicable standards. Staff do, however, recommend that the fence be moved back from the edge of the sidewalk to match the front building setback of the adjacent two-flat building. (As a clarification, this setback should match the wall of the building and not the porch.) As proposed, the six-foot tall fence would abut the sidewalk, resulting in a somewhat unusual appearance. A fence that close to the sidewalk may also be a target for graffiti. The proposed location may also limit the visibility down the sidewalk and Williamson Street from the parking lot. Staff recommend that Traffic Engineering approve the location of the fence for compliance with applicable vision triangle standards.

Outdoor Smoking Enclosure

The applicant's second request is to construct an enclosed outdoor smoking area at the rear of the building. As proposed, a smoking area is not a separate conditional use in itself, but the proposed enclosure is a site plan alteration on a property with an approved conditional use.

This alteration is in response to neighborhood concerns raised regarding outdoor noise and patron conduct outside the facility. Plan B's intent is to provide the nightclub's staff greater ability to control noise and activity outside the building. The letter of intent estimates the capacity would be approximately 30 persons. More recent plans developed by the project architect indicate the space could accommodate a maximum capacity of 47 persons.

The enclosed area is depicted on the provided plans and would surround the rear exit and extend near the back property line. A solid wood fence is proposed around the area. The fence height is generally 11 feet in most areas, though at the rear of the property, a lower height of four (4) feet is proposed. The design of the enclosure is intended to direct noise away from the residential neighbors and direct it towards the office building to the rear of the site.

Representatives from Plan B attended a meeting with nearby neighbors and the meeting notes (provided by the neighborhood association president) are attached. The notes indicate that the surrounding neighbors are generally supportive of the outdoor smoking enclosure, though concerns over noise have been raised. In regards to the patio, the neighbors recommended no tables and chairs be placed outside in order to encourage patrons to return inside.

If approved, staff note that the applicant anticipates making a future Plan Commission application to allow patrons to bring drinks into the proposed smoking enclosure. In addition to altering their alcohol service license, the Zoning Administrator indicates such a change would require approval of a new conditional use. A request to establish an outdoor drinking area was not included in this request to amend the parking lot conditional use and is not before the Plan Commission at this time.

Staff do not object to the addition of the outdoor smoking patio though recommend that no outdoor amplified sound or live music be allowed. Additionally, staff support the neighbors' request to prohibit tables and chairs, provided this does not allow a larger outdoor patio capacity. At this time, staff note that further operational information will likely be necessary to evaluate whether any future request to allow drinks on the patio would meet the conditional use standards. This change may result in additional patrons spending longer periods of time outside of the building, potentially increasing outdoor noise. Outdoor noise remains a significant concern for staff.

Staff note that Plan B is on the March 17, 2010 ALRC agenda to amend their service license to allow drinks to in the proposed patio. A second change, increasing the facility's overall capacity is discussed in the following section.

Parking Reduction

The third alteration requested by the applicant for is an additional 15-stall parking reduction. This was presented to staff in early March 2010. As noted above, one of the concerns raised by neighbors is that of outdoor noise. One source of outdoor noise identified by the applicant is from patrons lined up outside waiting to enter the facility. The applicant's argument is by increasing the capacity, patrons would not have to wait outside to enter.

Currently the bar has a weekday capacity of 200 people (Sunday through Wednesday) and 250 people (Thursday through Saturday). Plan B has proposed to increase the Thursday through Saturday capacity up to 300 persons in an attempt to reduce the number of people waiting outside to enter.

Staff understands that there may be physical capacity within the building to accommodate a larger capacity. An increase in capacity would first need to be reviewed by the Fire Department, ALRC, and ultimately approved by the Common Council. If a larger capacity is approved, a corresponding parking reduction needs to be approved prior to the new capacity taking effect.

The City's Zoning Code requires "restaurants, taverns, and meeting halls" to provide parking spaces equal to 30% of the building's capacity. Based on the current capacity, the code requires 75 parking stalls. The previously approved parking reduction allowed that requirement to be reduced to 17 on-site stalls. With a maximum proposed capacity of 300 persons, 90 parking stalls would now be required. No additional on-site parking would be provided. Thus, an additional 15-stall reduction is before the Plan Commission.

The increase in capacity and associated parking reduction may reduce the number of people waiting to enter the facility, potentially reducing some noise generated outside the club. The potential trade-off would be creating additional parking pressures within the neighborhood. Considering the very large parking reduction already approved, staff do not anticipate that reducing the zoning requirement for 15 additional stalls will not likely result in a significant noticeable impact. While no information has been provided on the average number of patrons waiting to get it, those who are in line have presumably parked or otherwise reached the facility. Staff note that a nearby property owner had contacted staff in opposition to a further parking reduction, noting his nearby commercial parking lot was illegally being utilized by Plan B patrons. No formal written comments regarding this item have been forwarded to staff.

Should the increase in capacity be approved by the ALRC and Common Council, staff do not object to a further reduction in required parking.

Conclusion

The applicant, Plan B, requests three alterations to an approved conditional use. These alterations have been proposed by the nightclub's owners largely to address issues and concerns raised by neighbors. These alterations include 1) the installation of a new screening fence; 2) the creation of an enclosed outdoor smoking area; and 3) approval of an additional 15-stall parking reduction to accommodate an increase in capacity.

One item requiring careful consideration is the location of the new screening fence. While there is general agreement that a new solid fence will provide improved screening between the parking lot and the adjoining residence, the unresolved issue before the Plan Commission is where the fence should be sited. The applicant seeks to place it at the property line, while the neighboring property owner requests it be moved approximately four and one-half feet in for a variety of reasons.

Staff is generally supportive of these alterations and believes the conditional use standards may be able to be met.

Recommendation and Proposed Conditions of Approval

Major/Non-Standard Conditions are Shaded

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

Subject to input at the public hearing, The Planning Division recommends that the Plan Commission find the conditional use standards are met and **approve** the requested alterations to an approved conditional use. This recommendation is subject to conditions recommended by the Planning Division and other reviewing agencies:

1. That the following conditions are in addition to those stated in the March 10, 2009 approval letter.
2. That the fence shall be set back from the Williamson Street sidewalk, with the setback to match the front building setback of the adjacent two-flat building. As a clarification, this setback should match the wall of the building and not the porch. The Plan Commission shall determine the fence's distance from the property line. Traffic Engineering shall also approve the location of the fence for compliance with applicable vision triangle standards.
3. That there is no outdoor amplified sound or live music allowed on the outdoor smoking patio.
4. That no chairs or tables are placed in the outdoor smoking patio. Submitted plans show a maximum capacity of 47 patrons. This capacity shall be reviewed and approved by the Fire Department, ALRC, and Common Council, but in no event shall it be greater than 47 persons.
5. That the additional 15-stall parking reduction is conditioned upon the revised capacity of 300 patrons (for Thursday-Saturday) being approved by the Common Council based on review from the Fire Department and ALRC. Should a different capacity be approved, an alteration to this parking reduction may need to be approved.
6. That the color and/or stain of both the screening fence and patio enclosure fence are labeled, for approval by Planning Division staff.

The following conditions have been submitted by reviewing agencies:

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

7. Revise plan to replace "Proposed 2' Wide Public Sidewalk Easement" note with "2' Wide Public Sidewalk Easement per Doc 4580587".
8. The applicant shall submit, prior to plan sign-off, digital CAD files to the Land Records Coordinator in the Engineering Division. (Lori Zenchenko) izenchenko@cityofmadison.com. The digital copies shall be drawn to scale and represent final construction including: building footprints, internal walkway areas, internal site parking areas, lot lines/ numbers/ dimensions, street names, and other miscellaneous impervious areas. All other levels (contours, elevations, etc) are not to be included with this file submittal. Email file transmissions are preferred. The digital CAD file shall be to scale and represent final construction. Any changes or additions to the location of the building, sidewalks, parking/pavement during construction will require a new CAD file. The single CAD file submittal can be either AutoCAD (dwg) Version 2001 or older, MicroStation (dgn) Version J or older, or Universal (dxf) format. Please include the site address in this transmittal.

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

9. The applicant shall demonstrate truck turning movements to allow the truck access to the proposed loading area. The applicant may need to relocate the truck loading area and demonstrate truck access to the loading area.
10. The applicant will need to modify the 17 ft – 0 in Turning Radius to noted item “F” = 20 ft min according to M.G.O.
11. When the applicant submits final plans of one contiguous plan 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, 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'.
12. 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.
13. Public signing and marking related to the development may be required by the City Traffic Engineer for which the developer shall be financially responsible.

Fire Department (Contact Scott Strassburg, 261-9843)

14. Per the IFC chapter 10 and MGO34:
 - a. Applicant shall submit approved capacity with the site plan and post the capacity of the outside dining area in accordance International Fire Code 2009 edition.
 - b. Proposed deck, patio or fenced in area shall not be located at, adjacent or obstruct the required exits from the building.
 - c. Provide and maintain exits from the deck, patio or fenced in area in accordance with the International Fire Code 2009 edition.
 - d. Submit a site plan showing any/all seating, bar, tent, dumpster, structures and fixtures for the proposed deck, patio or fenced in area space.

Zoning Administrator (Contact Pat Anderson, 266-5978)

15. A revised landscape plan must be submitted, showing on-site landscaping and final approved location of fence as established by the Plan Commission. 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 and along the east side of the property shall be protected from vehicles by concrete curbs.

16. Provide a lighting plan showing at least .5 foot candle on any surface on any lot and an average of .75 footcandles. The maximum light trespass shall be 0.5 fc at 10 ft from the adjacent lot line. (See City of Madison lighting ordinance).
17. Meet all applicable State accessible requirements, including but not limited to:
 - a. Provide a minimum of two accessible stall striped per State requirements. A minimum of one of the stall shall be a van accessible stall 8' wide with an 8' striped out area adjacent.
 - b. Show signage at the head of the stall.

Metro Transit (Contact Tim Sobota, 261-4289)

This agency did not submit a response to this request.

Water Utility (Contact Dennis Cawley, 261-9243)

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, and not need a copy of the approved plans.

Parks Division (Contact Kay Rutledge 266-4717)

This agency did not submit a response to this request.