



Report to the Plan Commission

July 26, 2010

Legistar I.D. #19278

2 South Mills Street / 1107 Regent Street

Conditional Use Request

Report Prepared By:
Heather Stouder, AICP
Planning Division Staff

Requested Action: Approval of an alteration to an existing conditional use for an outdoor eating area and expansion of existing Football Saturday beer garden in the C2 (General Commercial) District.

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

Summary Recommendation: The Planning Division recommends that the Plan Commission finds the conditional use standards can be met and **approve** the request for a conditional use for a new seasonal outdoor eating area. Further, unless the Plan Commission finds that the conditional use standards cannot be met, the Planning Division recommends that the Plan Commission **approve** the requested expansion of the Football Saturday beer garden.

Background Information

Applicant/Owner: Terry Leung; Hong Kong Café; 2 S. Mills St.; Madison

Project Contact: Chris Thiel; Thiel Studio; 828 S Brooks; Madison

Proposal: The applicant requests an alteration to an existing conditional use to expand capacity of a Football Saturday beer garden and to add a seasonal outdoor eating area on the West side of the building, along Regent Street.

Parcel Location: 2 S. Mills St. and 1107 Regent St are adjacent parcels on the southwest corner of Regent Street and Mills Street, Aldermanic District 13 (Kerr); Madison Metropolitan School District.

Existing Conditions: The 5,500 square foot site includes a two-story mixed-use building with a restaurant on the first floor and two residential units on the second floor, with an asphalt surface to the west currently utilized for seating for beer gardens on football Saturdays.

Surrounding Land Use and Zoning: This site is located in the Regent Street commercial corridor just south of the UW-Madison Campus, surrounded by the following specific uses:

North: McDonald's Restaurant in the C2 (General Commercial) District

East: Medical Clinic in the C2 (General Commercial) District

South: Two-unit residential building in the C2 (General Commercial) District

West: Automobile surface parking in the C2 (General Commercial) District.

Adopted Land Use Plan: The Comprehensive Plan (2006) and Regent Street South Campus Plan (2008) recommend Neighborhood Mixed Use for this property. The Regent Street-South Campus Neighborhood Plan recommends a 4-story maximum height on this block.

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

Public Utilities and Services: The property is served by a full range of urban services, including Metro Transit Route 6.

Zoning Summary: The property is in the C2 (General Commercial) District.

Bulk Requirements	Required	Proposed
Lot Area	6,000 sq. ft.	5,394 sq. ft
Lot width	50'	44' (Mills St.)
Front yard	0'	Existing/adequate
Side yards	0'	Existing/adequate
Rear yard	10'	24' to canopy
Floor area ratio	3.0	Less than 1.0

Site Design

No. Parking stalls	30% of capacity	2
Accessible stalls	1	1 (see Comment 11, p. 6)
Loading	N/A	N/A
No. Bike Parking stalls	4	6 (see Comment 17, p. 6)
Landscaping	No	No
Lighting	Yes	(see Comment 15, p. 6)

Approved Occupancy of the property per Madison Fire Department	
Tavern	80 persons
Tavern + outdoor eating area	TBD (see Comment 13, p. 6)
Tavern + outdoor eating area without fixed seats	TBD (see Comment 13, p. 6)
Beer garden	TBD (see Comment 13, p. 6)

Other Critical Zoning Items

Urban Design	No
Utility easements	Yes
Adjacent to park	No
Barrier free (ILHR 69)	Yes

Prepared by: Pat Anderson, Asst. Zoning Administrator

Project Description

The applicant seeks an alteration to an existing conditional use to accommodate three separate uses throughout the year:

1. A seasonal outdoor eating area, with one automobile parking stall and six bicycle-parking stalls;
2. Three automobile parking spaces and six bicycle parking stalls in a small surface lot, when the outdoor eating area is not being used, and;
3. A modified layout and capacity limitations for a Football Saturday beer garden

Existing Conditions

The site has an existing 2-story, approximately 4,800 square-foot mixed-use building with a restaurant on the ground level and two residential units above. Since the 2009 removal of an accessory structure just west of the existing building, the asphalt area adjacent to the building has three automobile parking stalls and two bicycle parking stalls. Raised planters screen the parking area from Regent Street.

The restaurant has an indoor capacity of 80, and hours of operation from 11:00 to 9:00pm Sunday-Thursday and 11:00-10:00pm Friday and Saturday.

For Football Saturday beer gardens, the existing conditional use permits an outdoor capacity of 131 in a roughly 1,900 square foot area with tables and chairs, surrounded by a temporary fence with an entrance and exit on the north side. Consistent with other Football Saturday beer gardens, hours of operation are from 10:00am to 8:00pm, or 10:00am to 10:00pm for games beginning after 5:00pm.

Site Plans

The most significant permanent site change proposed is the addition of a brick fence, which would appear as an extension of the building along Regent Street. The fence as proposed is approximately 3 ½ feet tall, including a 6-inch course of decorative metal on top. Two matching 11-foot brick columns on the ends of the fence are proposed to support a decorative beam, which would effectively hide a canvas canopy to be used seasonally as shade for the proposed outdoor eating area. In all cases, the existing two-story brick building would remain the same. Proposed conditions for the three individual site plans are as follows:

Outdoor Eating Area (“Summer Condition”) - As proposed, the 710 square foot seasonal outdoor eating area is located immediately west of the building with an additional 64-person capacity, bringing the total capacity of the restaurant to 144. The eating area would be surrounded on the west and south sides with temporary decorative metal fencing to match the top of the permanent brick and iron fence along the north side. A canvas canopy is proposed to shade and cover the area. Hours of operation for the outdoor eating area would be the same as the indoor portion of the restaurant, closing at 9:00 PM Sunday through Thursday, and at 10:00 PM on Fridays and Saturdays.

Surface Parking (“Winter Condition”) - When the outdoor eating area is unusable in colder months, the temporary fencing and canopy will be removed and stored, and the area west of the building will be utilized for three automobile parking spaces and six bicycle parking stalls (increasing from the existing two bicycle stalls). The brick fence on the north side will effectively screen the parking area from the sidewalk along Regent Street.

Beer Garden (“Football Game Condition”) - The applicant has proposed a 2,314 square foot area to be used as a beer garden on UW Football Saturdays. The beer garden as it has functioned in previous years would be expanded by roughly 400 square feet (20%) into the space afforded by the 2009 demolition of the accessory structure. The applicant proposes a 49% increase in capacity from 131 to 195. While a majority of the area would still be utilized for “seated eating and drinking” as it is today, the applicant has calculated the *additional* capacity based on a ratio of 1 person per 5 square feet, assuming a portion of the site will be used for “vertical drinking”, which occurs in a majority of the Football Saturday beer gardens in the area.

Related Approvals

There are no additional approvals by Committees or Commissions required for the proposed outdoor eating area.

The proposed modifications to the Football Saturday beer garden will be heard by the Alcohol License Review Committee on July 21, and they will recommend final action by the Common Council. Results from the July 21 ALRC meeting will be shared with the Plan Commission prior to the July 26 Plan Commission meeting.

Public Input

The District Alder supports the conditional use request for the new outdoor eating area and site improvements, but did express early concerns about the proposed capacity increase for the Football Saturday beer garden. Subsequently, at their June 10, 2010 meeting, the Greenbush Neighborhood Association Council voted unanimously to support the request for the outdoor eating area and the increased capacity for the Football Saturday beer garden. On June 12, the owner of the 2-unit residential property immediately to the south provided written support for the proposal.

Evaluation and Conclusion

The addition of a new outdoor eating area would be beneficial along Regent Street in this area planned for neighborhood mixed-use. The new brick fence is a marked improvement on the existing planters as both a strong delineation between the public right-of-way and the outdoor eating area and an effective screen for the winter parking area. Hours of operation (closing at 9:00pm on weekdays and 10:00pm on weekends) should preclude late-night noise impacts on the two-unit residential property immediately to the south, which is also zoned C2 (General Commercial).

Planning Division staff believes that the request to slightly expand the spatial extent of the Football Saturday beer garden into the area afforded by the demolition of the accessory structure in 2009 is reasonable. The applicant has noted notes that food sales are an important part of Football Saturdays, and that the establishment is unique among Football Saturday beer gardens due to its relatively quiet atmosphere. The Zoning Administrator noted that there have been no complaints in recent years regarding the operation of the beer garden.

As required by the Fire Department, the space will need to have an additional access point to the beer garden space on the north side along Regent Street, so that one can be utilized as an entrance, and the second as an exit. Further, the proposed "entrance" on the south side of the beer garden, accessible from the residential driveway to the south, will need to be solely utilized as an emergency exit, and the applicant will need to obtain permission from the property owner to utilize it as such.

Planning Division staff recommends that if the Plan Commission finds that the conditional use standards cannot be met with the request, the Plan Commission may wish to limit the capacity to that which exists today, 131 persons, noting the standard that cannot be met. However, the proposed capacity is acceptable to Fire Department staff, and is far below the capacity of other Football Saturday beer gardens in the area due to the fact that a majority of the area is dedicated to tables and chairs rather than "vertical drinking" space. Another option available, if the Plan Commission cannot tie the limitation on capacity to a conditional use standard, would be to defer capacity decisions to the recommendation of the ALRC and the ultimate decision by the Common Council.

Planning Division staff recommends that the Plan Commission finds that the conditional use standards for the outdoor eating area can be met, and **approve** the request for a seasonal outdoor eating area, subject to input at the public hearing and conditions from reviewing agencies.

Further, staff recommends that if the Plan Commission finds that the conditional use standards can be met for the proposed expansion to the Football Saturday beer garden, they **approve** the request in its entirety, subject to input at the public hearing and conditions from reviewing agencies.

Recommendations and Proposed Conditions of Approval

Major/Non-Standard Conditions are shaded

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 request subject to input at the public hearing and the following conditions:

The following conditions have been submitted by reviewing agencies:

Planning Division (Contact Heather Stouder, 266-5974)

1. Hours of operation for the seasonal outdoor eating area will be consistent with the indoor restaurant, closing no later than 9:00 pm Sunday through Thursday and 10:00 pm on Friday and Saturday.
2. The capacity for the Football Saturday beer garden shall be that approved by the Common Council following a recommendation by the Alcohol License Review Committee.
3. 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 letter, dated June 1, 1998. All procedures, including opening and closing times shall be consistent with standards established in that letter. 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.

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

4. In accordance with 10.34 MGO – STREET NUMBERS: Submit a PDF of both the first and second floor plans, showing all exterior entrance doors and stairwells, to Engineering Mapping Lori Zenchenko (addressing@cityofmadison.com) so that a final interior addressing plan can be developed for this site. If there are any changes pertaining to the location of a unit, the deletion or addition of a unit, or to the location of the entrance into any unit, (before, during or after construction) the addresses may need to be changed. The interior address plan is subject to the review and approval of the Fire Marshal.
5. It is suggested that the owner contact the City Assessor's Office (Maureen Richards 266-4845 or MRichards@cityofmadison.com) to discuss combining parcels 0709-224-0101-6 and 0709-224-0102-4.
6. The Applicant shall submit, prior to plan sign-off, a digital CAD file (single file) to the Engineering Program Specialist in the Engineering Division (Lori Zenchenko). The digital CAD file shall be to scale and represent final construction. The single CAD file submittal can be either AutoCAD (dwg) Version 2001 or older, MicroStation (dgn) Version J or older, or Universal (dxf) format and contain 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) All Underlying Lot lines or parcel lines if unplatted
 - g) Lot numbers or the words "unplatted"
 - h) Lot/Plat dimensions
 - i) Street names

All other levels (contours, elevations, etc) are not to be included with this file submittal.

NOTE: Email file transmissions preferred addressing@cityofmadison.com . Include the site address in the subject line of this transmittal. Any changes or additions to the location of the building, sidewalks, parking/pavement during construction will require a new CAD file. (POLICY and MGO 37.09(2) & 37.05(4))

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

7. When the applicant submits final plans of 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'.
8. All directional/regulatory signage and pavement markings on the site shall be shown and noted on the plan.
9. The applicant shall prevent encroachment onto adjacent land areas and sidewalk by barriers of some type, which shall be noted on the face of the revised plans.
10. Public signing and marking related to the development may be required by the City Traffic Engineer for which the developer shall be financially responsible.

Zoning Administrator (Contact Pat Anderson, 266-5978)

11. Parking requirements for persons with disabilities must comply with MGO Section 28.11(3)6.(m) which includes all applicable State accessibility requirements, including but not limited to:
 - a) Provide a minimum of one accessible stall 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.
12. FENCE ENCLOSURE, SECURITY GUARDS, LITTER CONTROL, AND PORTABLE TOILETS. 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.
13. Meet applicable building/fire codes for the additional outdoor capacity and for ingress and egress of the establishment with the areas and uses for the site. Occupancy is established by the Building Inspection Unit. Contact Alan Harper at 266-4558 to help facilitate this process. The submitted plans do not indicate that an increased capacity is being requested (except for Badger Football Saturday beer garden) so no additional parking will be required.
14. The submitted documents include signage, which is not being reviewed at this time. Signage approvals are not granted by the Plan Commission. Signage must be reviewed for compliance with MGO Chapter 31. 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 part of this approval.
15. Lighting is required and shall be in accordance with MGO Section 10.085. Provide a plan 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 lint (see City of Madison lighting ordinance).

16. No portion of the site plan may change without Plan Commission approval, however, the Zoning Administrator may issue permits for minor alterations or additions which are approved by the Director of Planning and Community and Economic Development and are compatible with the concept approved by the City Plan Commission and the standards in MGO Section 28.12(11)(g).
17. Bike parking shall comply with MGO Section 28.11. Provide at least four (4) 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. Provide bike rack detail.

Water Utility (Contact Dennis Cawley, 261-9243)

18. 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.

Fire Department (Contact Bill Sullivan, 261-9658)

19. When operating under the Football Saturday Beer Garden Plan, capacity shall be maintained and monitored by having one patron entrance for counting patrons in, and another location for patrons leaving the site being counted out. The "entrance" at the neighbor's driveway shall be an emergency exit only. *(The applicant has worked with MFD staff to incorporate a second entrance on the north side of the beer garden. This will be reflected in final plans for staff review and approval.)*
20. Owner shall be responsible for obtaining permission to use adjacent property for emergency egress and ensure the minimum exit width is maintained out to the public way.
21. The property owner is responsible for compliance with the International Fire Code (IFC).
22. The property owner is responsible to incorporate the outdoor beer garden into the existing fire safety and maintain it in accordance with the IFC.
23. Staff must be trained and capable of effectively and efficiently evacuating the area in an emergency.
24. Exit and exit width shall be maintained at all times.
25. Outdoor area must be operated and maintained in accordance with approvals.
26. Capacities of indoor and outdoor areas shall not exceed the approved limits.

Metro Transit (Contact Tim Sobota, 261-4289)

This agency did not submit comments for this proposal.



Addendum - Report to the Plan Commission

July 26, 2010

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Heather Stouder, AICP
Planning Division Staff

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Summary Recommendation: The Planning Division recommends that the Plan Commission finds the conditional use standards can be met and **approve** the request for a conditional use for a new seasonal outdoor eating area. Further, unless the Plan Commission finds that the conditional use standards cannot be met, the Planning Division recommends that the Plan Commission **approve** the requested expansion of the Football Saturday beer garden.

Related Approvals Update

The Alcohol License Review Committee on July 21 voted to recommend that the Council grant a Change of Licensed Premise to expand the existing Football Saturday beer garden and add a new outdoor eating area at 2 S. Mills St. / 1107 Regent St. (Legistar Item #19159).