



## Report to the Plan Commission

August 9, 2010

**Legistar I.D. #19425**  
**1101 N. Sherman Avenue**  
**Conditional Use**

Report Prepared By:  
**Timothy M. Parks, Planner**  
Planning Division

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**Requested Action:** Approval of a conditional use to allow fuel dispensing islands, a canopy and underground storage tanks to be installed at a former gas station/ convenience store located at 1101 N. Sherman Avenue.

**Applicable Regulations & Standards:** Section 28.09(3)(d) identifies automobile service stations for the retail sale and dispensing of fuel, lubricants, etc. as a conditional use in the C2 General Commercial District. Section 28.04 (16) provides specific criteria for automobile service stations. Section 28.04(3)(e) stipulates that a conditional use permit shall authorize only one specific conditional use and shall expire if that conditional use ceases for more than 6 months for any reason. 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 find the standards met and **approve** a conditional use to allow fuel dispensing islands and underground storage tanks to be installed at a former gas station/ convenience store at 1101 N. Sherman Avenue, subject to input at the public hearing and the conditions from reviewing agencies beginning on page 5 of this report.

### Background Information

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**Applicant:** Rupinder S. Chahal, Madison Oil, LLC; 1414 Starr Grass Drive; Madison.

**Agent:** Brad Koning, Shulfer Architects, LLC; 1918 Parmenter Street, Suite 2; Middleton.

**Property Owner:** Phillip Roth c/o M&I Trust; PO Box 2035; Milwaukee.

**Proposal:** The applicant wishes to reopen a former gas station/ convenience store on the subject site and will be installing new underground fuel storage tanks, two fuel dispensing pumps and a canopy to replace fuel dispensing equipment that was removed from the site in 2009. The project will commence construction as soon as all regulatory approvals have been granted, with completion scheduled for October.

**Existing Conditions:** The subject site is developed with a vacant one-story, 3,360 square-foot retail building, zoned C2 (General Commercial District).

**Parcel Location:** An approximately 0.48-acre parcel located at the northeastern corner of N. Sherman Avenue and Roth Street; Aldermanic District 12; Madison Metropolitan School District.

### Surrounding Land Use and Zoning:

North: Northgate Shopping Center, zoned C2 (General Commercial District);

South: Kavanaugh's Esquire Club, zoned C2; surface parking and undeveloped land, zoned M1 (Limited Manufacturing District) and W (Wetlands District);

East: Pollock Auto Body, Dorn Bait & Tackle, Northgate Shopping Center, zoned C2;

West: Sherman Glen Apartments, zoned PUD-SIP; All Auto Service, Café Bellitalia, zoned C3L (Commercial Service and Distribution District).

**Adopted Land Use Plan:** The Comprehensive Plan recommends the subject site and nearby properties south of Aberg Avenue on both sides of N. Sherman Avenue (including the Sherman Glen Apartments and Northgate Shopping Center) for future community mixed-use development. A transit-oriented development node is also identified at the N. Sherman-Aberg intersection.

The site is also located with the boundaries of the 2009 Northport-Warner Park-Sherman Neighborhood Plan, which includes two redevelopment concepts for Northgate Shopping Center that call for the retail center to evolve into a mixed-use, transit-oriented development as part of a larger-scale redevelopment proposal for the area bounded by N. Sherman Avenue on the west, Aberg Avenue on the north, Packers Avenue on the east and Commercial Avenue on the south.

**Environmental Corridor Status:** The subject site 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:** Existing C2 (General Commercial District) zoning:

Requirements	Required	Proposed
Lot Area	6,000 sq. ft.	20,691 sq. ft./ 0.48 acres
Lot Width	50'	147' along N. Sherman Avenue
Front Yard	0'	Adequate
Side Yards	0'	Adequate
Rear Yard	10'	Adequate
Floor Area Ratio	3.0 maximum	Less than 1.0
Building Height	N/A	1 story
No. Parking Stalls	5	6
Accessible Stalls	2	1 (see cond. #17a, page 7)
Loading	N/A	---
No. Bike Parking Stalls	4	0 (see cond. #19, page 7)
<b>Other Critical Zoning Items</b>		
Yes:	Utility Easements, Barrier Free	
No:	Urban Design, Floodplain, Historic District, Landmark, Adjacent to Park, Wellhead Protection	
<i>Prepared by: Pat Anderson, Asst. Zoning Administrator</i>		

## Project Review

The applicant is requesting approval of a conditional use to allow fuel dispensing islands, a canopy and underground storage tanks for a gas station to be re-installed on an approximately 0.48-acre property located at the northeastern corner of N. Sherman Avenue and Roth Street in C2 commercial zoning. The subject site was most recently occupied by a Speedway gas station and convenience store.

However, the fuel dispensing appurtenances were removed in 2009 and were not re-installed within 6 months, which caused the prior conditional use approval for the gas station to lapse. The Zoning Ordinance states that a conditional use shall expire if that conditional use ceases for more than 6 months for any reason. Therefore, approval of a new conditional use permit is required before the applicant can resume fuel sales on the subject site.

Plans for the new fuel dispensing operation call for 2 pumps with 4 fueling positions to be installed between N. Sherman Avenue and the 3,360 square-foot convenience store building located on the eastern half of the site, which the applicant has indicated to staff will receive a minor renovation as part of the rebranding of the facility to a Clark gas station and convenience store. The 2 new pumps will be covered by a 24-foot wide, 46-foot long metal canopy that will be supported by 2 steel columns. Two underground fuel storage tanks will be installed between the proposed pump islands and the northern property line.

Access to the gas station will be provided from a driveway from N. Sherman Avenue adjacent to the northern property line and from a driveway from Roth Street adjacent to the Sherman intersection. An existing second driveway from N. Sherman Avenue just north of Roth Street will be closed as part of the proposed site improvements. Parking for a total of 7 cars is proposed along the northern wall of the store and along the eastern property line. An existing storage shed will remain, while a new wood trash enclosure will be constructed at the rear of the building adjacent to an existing 6-foot wood screen fence that extends along the eastern property line. A landscaping plan submitted with the conditional use plans calls for a 4.5-foot wide landscaped area to be installed between the N. Sherman Avenue sidewalk and the fuel service area, which will be planted with 3 ornamental crab trees and a variety of deciduous shrubs and perennials. Landscaping will also be installed in a 5.5-foot deep planting area extending along the northern property line. The area behind the building and between the building and Roth Street is currently planted with grass; a red sunset maple tree will be planted adjacent to the Roth Street driveway.

Hours of operation for the gas station and convenience store will be from 5:00 a.m. to midnight 7 days a week (the letter of intent inadvertently states 5:00 a.m. to 12:00 p.m.). The letter of intent indicates that the applicant will be pursuing a permit from the Alcohol License Review Committee and Common Council to sell alcoholic beverages in the convenience store.

## **Analysis & Conclusion**

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Gas stations are considered under the broader category of automobile service station, which may include the retail sale and dispensing of fuel, lubricants, tires, batteries, accessories and supplies, including installation and minor service. Automobile service stations are first identified as a conditional use in the C1 Limited Commercial District and telescope as a conditional use in the C2 General Commercial District. In addition, automobile service stations are subject to the provisions in Section 28.04(16) of the Zoning Ordinance, which includes specific requirements related to the lighting of automobile service stations, their proximity to other such stations, and the screening of those facilities adjacent to properties in residential zoning districts.

In reviewing the request, Planning Division staff believes that the conditional use standards can generally be met. The existing convenience store building and prior fuel dispensing appurtenances were approved in February 1970, and available City records indicate that an automobile service station has existed on the subject site in some form since at least 1946. Given this history, staff believes that the proposed reestablishment of fuel sales is appropriate. The installation of the new pumps, canopy

and underground storage tanks and the general modernization of the property should result in a more visually attractive environment along N. Sherman Avenue, and the proposed improvements around the perimeter of the site, including the installation of a landscaped buffer between the fuel service area and N. Sherman Avenue sidewalk, should soften and improve the general appearance of the overall site.

The Comprehensive Plan recommends the subject site and nearby properties south of Aberg Avenue on both sides of N. Sherman Avenue (including the Sherman Glen Apartments and Northgate Shopping Center) for future community mixed-use development. A transit-oriented development node is also identified at the N. Sherman-Aberg intersection. The site is also located with the boundaries of the 2009 Northport-Warner Park-Sherman Neighborhood Plan, which includes two redevelopment concepts for Northgate Shopping Center that call for the retail center to evolve into a mixed-use, transit-oriented development as part of a larger-scale redevelopment proposal for the area bounded by N. Sherman Avenue on the west, Aberg Avenue on the north, Packers Avenue on the east and Commercial Avenue on the south. One of the redevelopment concepts calls for the preservation of much of the existing Northgate Shopping Center, with reuse and infilling primarily of the large surface parking area north and west of the retail buildings. Under this concept, the subject property and other nearby properties not on the Northgate site are not specifically recommended for redevelopment. However, under the second concept, Northgate and all of the properties along and north of Roth Street including the subject site would be redeveloped as part of a larger-scale community mixed-use, transit-oriented redevelopment.

However, despite these planning recommendations, staff believes that the proposed reestablishment of fuel sales can meet the conditional use standards given that no demolition is being proposed to facilitate the reestablishment. Were fuel sales and the related convenience store being proposed on this site for the first time, staff may have come to a different conclusion about the appropriateness of the proposed use given the recommendations of the Comprehensive and Northport-Warner Park-Sherman plans. Staff also feels that the site improvements that will coincide with the return of fuel sales to this site will begin to implement some of the design recommendations generally recommended for this area in the Northport-Warner Park-Sherman Neighborhood Plan, which encourage pedestrian-oriented treatments and streetscaping to improve the appearance of the surrounding area.

To ensure that the conditional use standards continue to be met for the gas station and the aesthetic goals of the neighborhood plan are upheld, Planning staff recommends a condition of approval that prohibits the outdoor storage and sale of windshield wash, mulch, firewood, salt and other such materials at any location on the subject site, including in the parking lot, on walkways adjacent to the convenience store or in the area of the pump islands. Staff feels that the proposed propane tank sale and rental locker is marginally appropriate, though it recommends that it be relocated from the walkway in front of the store.

Finally, the Planning Division believes the applicable provisions in Section 28.04(16) can be met with the request to reestablish the gas station on the subject site. Staff has identified only one other existing gas station within 1,980 feet of this site, and the photometric plan for the property suggests that on-site lighting fixtures have been arranged so as not to reflect rays of light into adjacent lots nor shine rays of light directly into the streets. Because the side or rear yards of the proposed gas station do not abut a residential district, the screening provisions in Section 28.04(16) do not apply. However, staff feels that the landscaping plan proposed is generally acceptable save for the recommended condition of approval to add a second shade tree between the convenience store and Roth Street.

## **Staff Recommendations, Conditions of Approval & General Ordinance Requirements**

Major/Non-Standard Conditions are shaded

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### **Planning Division Recommendation** (Contact Timothy M. Parks, 261-9632)

The Planning Division recommends that the Plan Commission find the standards met and **approve** a conditional use to allow fuel dispensing islands and underground storage tanks to be installed at a former gas station/ convenience store at 1101 N. Sherman Avenue, subject to input at the public hearing, the following Planning Division conditions, and the conditions from reviewing agencies:

1. Revise the site plans prior to final approval of the conditional use and issuance of building permits as follows:
  - 1a. relocate the bike rack from between the shed and trash enclosure to an area adjacent to the new sidewalk between the convenience store and Roth Street;
  - 1b. so as to preserve a safe and visually uncluttered walking environment along the western front façade of the store, relocate the propane cage to a location along the southern elevation facing Roth Street, and eliminate the windshield wash, mulch, firewood and salt displays;
  - 1c. show the planting of a second red sunset maple or other similar deciduous shade tree along Roth Street east of the red sunset maple currently proposed.
2. The outdoor storage and sale of windshield wash, mulch, firewood, salt and other such materials shall not be permitted at any location on the subject site, including in the parking lot, on walkways adjacent to the convenience store or in the area of the pump islands.
3. No outdoor amplified advertisements or music shall be permitted.

The following conditions have been submitted by reviewing agencies:

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

4. Any damage to the pavement shall be restored in accordance with the City's pavement patching criteria.
5. The applicant shall close all abandoned driveways by replacing the curb in front of the driveways and restoring the terrace with grass.
6. All work in the public right of way shall be performed by a City-licensed contractor.
7. The plan set shall be revised to show a proposed private internal drainage system on the site. This information shall include the depths and locations of structures and the type of pipe to be used.
8. Prior to approval, this project shall comply with Chapter 37 of the Madison General Ordinances regarding stormwater management. Specifically, this development is required to: control 40% TSS (20 micron particle) off of new paved surfaces, and provide oil & grease control from the first 1/2" of runoff from parking areas.
9. The applicant shall submit, prior to plan signoff, 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: building footprints; internal walkway areas; internal site parking areas; other miscellaneous impervious areas lot lines; lot/ plat lines, dimensions and labels; right-of-way lines; street names, stormwater management facilities and; detail drawings associated with stormwater management facilities (including if applicable planting plans).

10. The applicant shall submit, prior to plan sign-off, digital PDF files to the City Engineering Division. The digital copies shall be to scale, shall have a scale bar on the plan set, and shall contain the following items: building footprints; internal walkway areas; internal site parking areas; lot lines and right-of-way lines; street names, stormwater management facilities and; detail drawings associated with stormwater management facilities (including if applicable planting plans).
11. The applicant shall submit prior to plan sign-off, electronic copies of any Stormwater Management File including: SLAMM DAT files; RECARGA files; TR-55/HYDROCAD/etc., and; sediment loading calculations. If calculations are done by hand or are not available electronically the hand copies or printed output shall be scanned to a PDF file and provided.
12. Prior to final approval of the conditional use and demolition permit applications, the owner shall obtain a permit to plug each existing sanitary sewer lateral that serves a building that is proposed for demolition. For each lateral to be plugged the owner shall deposit \$1,000 with the City Engineer in two separate checks in the following amounts: (1) \$100 non-refundable deposit for the cost of inspection of the plugging by City staff; and (2) \$900 for the cost of City crews to perform the plugging. If the owner elects to complete the plugging of a lateral by private contractor and the plugging is inspected and approved by the City Engineer, the \$900 fee shall be refunded to the owner.

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

13. The applicant shall indicate the type of City approved bicycle racks to be installed and locations. The bike rack should be located by the entrances to the buildings.
14. 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), adjacent driveway approaches to lots on either side and across the street, signage, percent of slope, vehicle routes, dimensions of radii, aisles, driveways, stalls including the 2-foot overhang, and a scaled drawing at 1" = 20'.
15. The intersection shall be so designed so as not to violate the City's sight-triangle preservation requirements, which state 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.
16. 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)

17. Parking requirements for persons with disabilities must comply with MGO Section 28.11(3)6.(m) which includes all applicable State accessible requirements, including but not limited to:
  - a.) Provide a minimum of 2 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. Accessible signs shall be a minimum of 60" between the bottom of the sign and the ground.
  - c.) Show the accessible path from the stalls to the buildings. The stalls shall be as near the accessible entrance as possible. Show ramps, curbs, or wheel stops where required.
18. Signage approvals are not granted by the Plan Commission. Signage must be reviewed for compliance with MGO Section 31. Sign permits must be issued by the Zoning Section of the Department of Planning and Community & Economic Development prior to sign installation.
19. Bike parking shall comply with MGO Section 28.11. Provide 2 bike parking stalls in a safe and convenient location on an impervious surface to be shown on the final plan. The lockable enclosed lockers or racks or equivalent structures in or upon which the bicycle may be locked by the user shall be securely anchored to the ground or building to prevent the lockers or racks from being removed from the location. Note: A bike-parking stall is 2 feet by 6 feet with a 5-foot access area. Structures that require a user-supplied locking device shall be designed to accommodate U-shaped locking devices.
20. Lighting is not required. However, if lighting is provided, it shall comply with City of Madison outdoor lighting standards, section 10.085. Lighting will be limited to .10 watts per square foot. (See City of Madison Lighting Ordinance).
21. The existing 10 x 15' shed was constructed as part of the remediation process for the previous gas station. Provide evidence that the change of use to the building as part of the operation of the new store complies with Madison General Ordinances.
22. Within 10 feet of a driveway crossing a street lot line, any landscaping/screening shall not exceed 2 feet 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 feet vision triangle of a street corner.
23. Provide a reuse/recycling plan, to be reviewed and approved by the City Recycling Coordinator prior to a demolition permit being issued. Sec 28.12(12)(e) of the Zoning Ordinance requires the submittal of documentation demonstrating compliance with the approved reuse and recycling plan. Please note, the owner must submit documentation of recycling and reuse within 60 days of completion of demolition.

**Parks Division** (Contact Ray Rutledge, 266-4714)

This agency did not submit comments for this request.

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

24. The Madison Fire Department does not object to this proposal provided the project complies with all applicable fire codes and ordinances.

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

This agency submitted a response with no conditions of approval for this request.

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

This agency did not submit comments for this request.

**Police Department** (Contact Frank Chandler, 266-4238)

This agency did not submit comments for this request.