

PLANNING DIVISION STAFF REPORT

March 24, 2014



PREPARED FOR THE PLAN COMMISSION

Project Address: 514 East Wilson Street
Application Type: Conditional Use and SIP Alteration
Legistar File ID #: [33075](#)
Prepared By: Kevin Firchow, AICP, Planning Division
Report Includes Comments from other City Agencies, as noted

Summary

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

Requested Action: The applicant requests approval of a conditional use and SIP (Specific Implementation Plan) alteration for the re-approval of an outdoor recreation area for a restaurant-tavern.

Proposal Summary: The applicant requests re-approval of a sand volleyball court in the parking lot behind the Essen House Restaurant. A sand volleyball court was approved in the same location for the summer of 2013. Due to concerns from nearby residents, the volleyball court was approved on a "trial" basis with the applicant agreeing to re-apply should he wish to operate the sand volleyball court in future years.

Applicable Regulations & Standards: This proposal is subject to the standards for conditional uses (M.G.O. Section 28.183(6) and Planned Developments (M.G.O Section 28.098)

Review Required By: Plan Commission (PC)

Summary Recommendation: The Planning Division recommends that the Plan Commission find that the conditional use and planned development standards are met and **approve** the request to re-approve an outdoor recreation area for a restaurant/tavern at 514 East Wilson Street. This recommendation is subject to input at the public hearing and the conditions recommended by the Planning Division and other reviewing agencies.

Background Information

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 and Land Use: 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.

Zoning Summary: The site is zoned Planned Development (PD) and as of the 2013 amendment, outdoor recreation is allowed as a conditional use.

Dimensional Requirements	Required	Proposed
Lot Area (sq. ft.)	As shown on approved plans	n/a
Lot Width	As shown on approved plans	n/a
Front Yard Setback	As shown on approved plans	n/a
Side Yard Setback	As shown on approved plans	n/a
Number parking stalls	As shown on approved plans	TBD
Landscaping	No	No
Lighting	Yes	Yes
Other Critical Zoning Items	Barrier free (ILHR 69)	

Table Prepared by Patrick Anderson, Assistant Zoning Administrator

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.

Project Description, Analysis, and Conclusion

The applicant, the Essen Haus restaurant, requests approval of a conditional use and specific implementation plan (SIP) alteration to re-approve a seasonal sand volleyball court in their parking lot behind the restaurant. This request is subject to the review standards for conditional uses and planned developments.

The Plan Commission approved a similar request in 2013 to first establish a sand volleyball court at this site. The site is zoned as a planned development and allowed uses are listed in the site-specific zoning text. The 2013 approval established sand volleyball as a *conditional use* on the subject site. In response to concerns from nearby residents, the applicant agreed to make that approval on a one-year “trial” basis. That approval expired at the end of last summer.

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 the first week of May through the first week of September. The proposed court hours of 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. Unlike the 2013 approval, the applicant is not proposing to install a mesh barrier around the court to deflect sound. This was tried last season and was believed by the applicant to be ineffective in deflecting court noise and in fact, caused more noise impacts when wind rattled the barrier.

A new lighting plan has not been provided. Staff understands that court lighting would comply with what was approved last summer. That Plan was approved by Building Inspection.

During last summer's operation, City Engineering and Building Inspection raised concerns on sand from the court washing into the storm sewers. Previously, the court was lined with a large silt "sock" to retain the sand. Engineering requests a more permanent solution be used this season. To contain sand, the applicant proposes a membrane-lined, treated timber retaining wall base set atop drain tile. Engineering has requested further information be provided. A 16 foot tall net will be installed surrounding the entire court perimeter to keep volleyballs from leaving the playing area.

Other than concerns on sand, the Planning Division was not aware of issues raised on the operation of the court. At the time of report writing, staff had not received any other comments on this proposal. If approved, this request could operate beyond this year without further Plan Commission action. Staff notes that as a conditional use, the Plan Commission retains "continuing jurisdiction" to review and resolve complaints that may arise on the operation of the volleyball court.

Recommendation

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

The Planning Division recommends that the Plan Commission find that the conditional use and planned development standards are met and **approve** the request to re-approve an outdoor recreation area for a restaurant/tavern at 514 East Wilson Street. This recommendation is subject to input at the public hearing and the conditions recommended by the Planning Division and other reviewing agencies.

Recommended Conditions of Approval

Major/Non-Standard Conditions are Shaded

Planning Division (Contact Kevin Firchow, 267-1150)

1. As stated in the letter of intent/management plan: That this use may be operated from the first week of May through the first week of September.

2. 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.
3. 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.

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

4. The Essen House seasonal volleyball within the parking area shall be addressed to 134 S. Blair Street.
 5. Update to site plans to reflect the correct street name of S. Blair Street.
 6. The Applicant shall propose a more permanent method of control for erosion from the sand pit system. Contact Jeff Benedict at 267-1198 to discuss further and to obtain examples of acceptable practices.
7. This project falls in the area subject to increased erosion control enforcement as authorized by the fact that it is in the ROCK RIVER TMDL ZONE and by Resolution 14-00043 passed by the City of Madison Common Council on 1/21/2014. You will be expected to meet a higher standard of erosion control than the minimum standards set by the WDNR.
 8. The applicant shall demonstrate compliance with Section 37.07 and 37.08 of the Madison General Ordinances regarding permissible soil loss rates. The erosion control plan shall include Universal Soil Loss Equation (USLE) computations for the construction period. Measures shall be implemented in order to maintain a soil loss rate below 7.5-tons per acre per year.
 9. Prior to approval, this project shall comply with Chapter 37 of the Madison General Ordinances regarding stormwater management. Specifically, this development is required to complete an erosion control plan and complete weekly self-inspection of the erosion control practices and post these inspections to the City of Madison website – as required by Chapter 37 of the Madison General Ordinances.
 10. 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.
 - g) Detail drawings associated with Stormwater Management Facilities (including if applicable planting plans).

Traffic Engineering (Contact Eric Halvorson, 266-6527)

11. A barrier shall be constructed around the volleyball court to prevent vehicle encroachment. An acceptable barrier can be constructed of timbers or sandbags (or any material substantial enough to absorb a low speed vehicular impact) to a height of 24" and shall not encroach on the 24' drive isle. No encroachment on State St. Right-of-Way shall be permitted as part of this approval.
12. The applicant shall submit one contiguous plan for approval. The plan drawing shall be scaled to 1" = 20' and include the following, when applicable: existing and proposed property lines; parcel addresses; all easements; pavement markings; signing; building placement; items in the terrace such as signs, street light poles, hydrants; surface types such as asphalt, concrete, grass, sidewalk; driveway approaches, including those adjacent to and across street from the project lot location; parking stall dimensions, including two (2) feet of vehicle overhang; drive aisle dimensions; semitrailer movement and vehicle routes; dimensions of radii; and percent of slope.
13. All parking facility design shall conform to MGO standards, as set in section 10.08(6).

Zoning Administrator (Contact Pat Anderson, 266-5978)

14. 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.
15. Contact the City Clerk regarding changes to licensed areas, should you choose to serve food/drink or alcohol in the outdoor areas.
16. 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.
17. 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.
18. Meet all City of Madison Engineering requirements and erosion control standards.

Fire Department (Contact Bill Sullivan, 261-9658)

This agency submitted a report with no recommended conditions of approval.

Parks Division (Kay Rutledge, 266-4816)

This agency did not submit comments for this request.

Water Utility (Contact Dennis Cawley, 266-4651)

19. 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.

Metro Transit (Contact Tim Sobota, 261-4289)

This agency did not provide comments for this request.

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