



BUILDING, SAFETY & ZONING DEPARTMENT

Main Office 920-262-4060	Brian Zirbes 920-262-4041	Mark Hady 920-342-0986
Nikki Zimmerman 920-262-4045	Dell Zwieg 920-262-4042	
Doug Zwieg 920-262-4062	Dennis Quest 920-262-4061	

TO: Site Review Committee / Plan Commission
DATE: January 30th, 2023
SUBJECT: C&J BBQ and Soul Food Conditional Use Permit - CUP

SITE DETAILS:

Acres: 0.73

Current Zoning: CB Central Business

Existing Land Use: Commercial

Future Land Use Designation: Central Mixed Use. No identified conflicts with Comprehensive Plan.

BACKGROUND AND APPLICATION DESCRIPTION:

Applicant is seeking approval of a conditional use permit to operate a barbeque restaurant within a section of an existing building at 210 South Water Street. The restaurant will operate Monday thru Friday 11am to 10:30pm and will initially be closed Saturdays and Sundays. The operation will offer both indoor and seasonal outdoor seating, with the outdoor seating ending service at 9pm. Live or recorded music may be played on occasion during regular business hours in either indoor or outdoor spaces. No alcoholic beverages will be served at the restaurant. The barbeque smoker will be operated in the outdoor area between the hours of 2am and 11am. A business operation plan is attached.

STAFF EVALUATION:

Site Plan Review Committee:

See Minutes of February 13, 2023.

Land Use and Zoning:

1. Within the Central Business (CB) Zoning District, 'no requirements for on-site landscaping or parking are required' [per § 550-34A].
2. Also, within the Central Business (CB) Zoning District 'Indoor Commercial Entertainment' is a principal land use permitted as a Conditional Use [per § 550-34B(2)(f)]. 'Indoor Commercial Entertainment' includes restaurants among the allowed uses [per § 550-52H].

Applicable regulations for 'Indoor Commercial Entertainment' land uses include the following:

- 'If located on the same side of the building as abutting residentially zoned property, no customer entrance of any kind shall be permitted within 150 feet, or as far as possible, of a residentially zoned property' [per § 550-52H(1)(a)].
 - The 'facility shall provide a bufferyard with minimum opacity of 0.60 along all borders of the property abutting residentially zoned property' [per § 550-52H(1)(b)].
3. Also, within the Central Business (CB) Zoning District, 'Outdoor Commercial Entertainment incidental to Indoor Commercial Entertainment' is an accessory use permitted by right [per § 550-34C(1)(n)]. 'Outdoor Commercial Entertainment' uses include those 'which provide entertainment services partially or wholly outside of an enclosed building' [per § 550-52I].

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Opportunity Runs Through It

Applicable regulations for 'Outdoor Commercial Entertainment' land uses include the following:

- The 'activity areas shall not be located closer than 50 feet to a residentially zoned property' [per § 550-521(1)(a)(1)].
- The 'facility shall provide a bufferyard with minimum opacity of 0.80 along all borders of the property abutting residentially zoned property' [per § 550-521(1)(b)].

WISCONSIN ACT 67:

Under 2017 Wisconsin Act 67: Section 16. 62.23 (7) (de) Conditional Use Permits.

1. 62.23 (7) (de)(1) In this paragraph:

- a. "Conditional use" means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a city, but does not include a variance.
- b. "Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

2. 62.23 (7) (de)(2)

- a. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the city ordinance or those imposed by the city zoning board, the city shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.
- b. The requirements and conditions described under subd. 2. a. must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The city's decision to approve or deny the permit must be supported by substantial evidence.

3. 62.23 (7) (de)(3)

Upon receipt of a conditional use permit application and following publication in the city of a class 2 notice under ch. 985, the city shall hold a public hearing on the application.

3. 62.23 (7) (de)(4)

Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the city may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the city zoning board.

4. 62.23 (7) (de)(5)

If a city denies a person's conditional use permit application, the person may appeal the decision to the circuit court under the procedures contained in par. (e) 10.

PLAN COMMISSION DECISION:

Indoor Commercial Entertainment Criteria	Applicant Provided Substantial Evidence		Opponent Provided Substantial Evidence		PC Finds Standards Met	
<i>If located on the same side of the building as abutting residentially zoned property, no customer entrance of any kind shall be permitted within 150 feet, or as far as possible, of a residentially zoned property</i>	Yes	No	Yes	No	Yes	No
Indoor Commercial Entertainment Criteria	Applicant Provided Substantial Evidence		Opponent Provided Substantial Evidence		PC Finds Standards Met	
<i>Facility shall provide bufferyard with minimum opacity of 0.60 along all borders of the property abutting residentially zoned property (see § 550-99).</i>	Yes	No	Yes	No	Yes	No
Outdoor Commercial Entertainment Criteria	Applicant Provided Substantial Evidence		Opponent Provided Substantial Evidence		PC Finds Standards Met	
<i>Within the Central Business (CB) Zoning District, outdoor activity areas shall not be located closer than 50 feet to a residentially zoned property.</i>	Yes	No	Yes	No	Yes	No
Outdoor Commercial Entertainment Criteria	Applicant Provided Substantial Evidence		Opponent Provided Substantial Evidence		PC Finds Standards Met	
<i>The outdoor facility shall provide a bufferyard with minimum opacity of 0.80 along all borders of the property abutting residentially zoned property</i>	Yes	No	Yes	No	Yes	No

If Plan Commission answers “no” to any of the questions, above, the CU permit must be denied. Otherwise, proceed to the condition of approval.

Options:

These are the following options, but not limited to, for the Plan Commission based on the information received by the City of Watertown Zoning & Floodplain Administrator:

1. Deny the Conditional Use Permit, based on failure to provide substantial evidence to meet one or more of the regulatory standards.
2. Approve the Conditional Use Permit without conditions, based on successfully providing substantial evidence of regulatory compliance.
3. Approve the Conditional Use Permit with conditions as identified by the Plan Commission.