

TO: Plan Commission
DATE: March 24th, 2025
SUBJECT: 1504 S Church Street, Conditional Use Permit - CUP

A request by Alex Jouse Blandon Robles for a Conditional Use Permit (CUP) for 'Indoor Commercial Entertainment'.
Parcel PIN(s): 291-0815-0923-067

SITE DETAILS:

Acres: 2.53
Current Zoning: General Business (GB)
Existing Land Use: Retail & Restaurant
Future Land Use Designation: Planned Mixed Use

BACKGROUND AND APPLICATION DESCRIPTION:

The applicant is seeking approval of a conditional use permit for 'Indoor Commercial Entertainment' for a restaurant and convenience/grocery store called 'Latinos Supermarket'. The CUP is needed for the restaurant portion of the business. The restaurant was established without first obtaining the required CUP. Since opening, approximately a dozen fire calls have been made to the business for smoke due to an improperly functioning exhaust hood. The Fire Department has identified several violations to the fire code including an incorrect exhaust hood type and fire suppression system. These issues are in the process of being corrected. Several electrical and plumbing code violations have also been documented at the business and are also in the process of being corrected.

STAFF EVALUATION:

Site Plan Review Committee:

See Minutes of March 24th, 2025.

Land Use and Zoning:

1. Within the General Business (CB) Zoning District, 'Indoor Commercial Entertainment' is a principal land use permitted as a conditional use [per § 550-33B(2)(g)]. '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)].
2. Parking requirements. One space per every three patron seats or lockers (whichever is greater) or one space per three persons at the maximum capacity of the establishment (whichever is greater). The proposed restaurant is located within an existing strip mall with established parking that meets these requirements.
 3. Landscaping requirements. The minimum landscape surface ratio (LSR) in the General Business (GB) Zoning District is 15%. The proposed restaurant is located within an existing strip mall with an approved landscaping plan that meets LSR and other landscaping requirements.



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WISCONSIN STATUES:

All Conditional Use Permits are subject to the requirements of 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.
4. 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.
5. 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	
	Yes	No	Yes	No	Yes	No
<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>	<u>Yes</u>	No	Yes	<u>No</u>	<u>Yes</u>	No
<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>	<u>Yes</u>	No	Yes	<u>No</u>	<u>Yes</u>	No
<i>Parking requirements. One space per every three patron seats or lockers (whichever is greater) or one space per three persons at the maximum capacity of the establishment (whichever is greater).</i>	<u>Yes</u>	No	Yes	<u>No</u>	<u>Yes</u>	No

If Plan Commission answers "no" to any of the questions, above, the CUP must be denied. Otherwise, proceed to the conditions of approval.

PLAN COMMISSION OPTIONS:

The following are possible options for the Plan Commission:

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:
 - a) All outstanding Fire and Building Code violations must be corrected.

STAFF RECOMENDATION:

- Staff recommends approval of this Conditional Use Permit with conditions.



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ATTACHMENTS:

- Application materials