

# PLANNING DIVISION STAFF REPORT

April 11, 2022



PREPARED FOR THE PLAN COMMISSION

**Project Address:** 224 Ohio Avenue (15<sup>th</sup> Alder District, Ald. Foster)  
**Application Type:** Conditional Use  
**Legistar File ID #:** [69795](#)  
**Prepared By:** Lisa McNabola, Planning Division  
Report Includes Comments from other City Agencies, as noted  
**Reviewed By:** Kevin Firchow, AICP, Principal Planner

## Summary

**Applicant & Contact:** Josh Swentzel; Ohio Tavern, Inc.; 224 Ohio Avenue, Madison, WI 53703

**Property Owner:** Terre L. Sims; 16 Loon Lane, Madison, WI 53717

**Requested Action:** Consideration of a conditional use in the Traditional Shopping Street (TSS) District to convert a restaurant-tavern into a restaurant-nightclub at 224 Ohio Avenue.

**Proposal Summary:** The applicant proposes to offer live music at an existing restaurant-tavern located in a two-story mixed-use building. No exterior or interior changes to the building are proposed with this application.

**Applicable Regulations & Standards:** This proposal is subject to the standards for Conditional Uses [MGO §28.183] as Table 28D-2 [MGO §28.061] lists a *restaurant-nightclub* as a conditional use in the Traditional Shopping Street (TSS) District. The Supplemental Regulations [MGO §28.151] contain further regulations for this use.

**Review Required By:** Plan Commission

**Summary Recommendation:** The Planning Division recommends that the Plan Commission find that the approval standards for conditional uses are met and **approve** the request to allow a restaurant-nightclub in an existing commercial building in the Traditional Shopping Street (TSS) District at 224 Ohio Avenue. This request is subject to the input at the public hearing and the conditions recommended by the reviewing agencies.

## Background Information

**Parcel Location:** The 3,120 square-foot (.07-acre) parcel is located at the northwest corner of Ohio Avenue and Atwood Avenue. It is also located within Alder District 15 (Ald. Foster) and the Madison Metropolitan School District.

**Existing Conditions and Land Use:** The restaurant-tavern is located at the rear of the first floor with an entrance facing Ohio Avenue. There is a commercial tenant located at the front of the building with an entrance on Atwood Avenue. According to city records there are two apartment units on the second floor. An outdoor eating area is located at the rear of the building, adjacent to a parking lot that is shared with 2328 Atwood Avenue. It is zoned Traditional Shopping Street (TSS) District.

### Surrounding Land Use and Zoning:

North: Capital City Trail and community gardens. Across St. Paul Avenue, low residential houses;

**East:** Across Ohio Avenue, Dane County Juvenile Shelter across Ohio Avenue, zoned Traditional Shopping Street (TSS) District;

**South:** One- and two-story mixed-use and commercial buildings along Atwood Avenue, zoned TSS District; and

**West:** One- and two-story mixed-use and commercial buildings along Atwood Avenue, zoned TSS District.

**Adopted Land Use Plan:** The [2018 Comprehensive Plan](#) recommends Neighborhood Mixed Use (NMU) development for the subject property and properties across the street. Properties to the east are recommended for Special Institutional (SI).

**Zoning Summary:** The property is zoned Traditional Shopping Street (TSS) District.

Requirements	Required	Proposed
Front Yard Setback	5 ft	Existing, no change
Side Yard Setback	0 ft	Existing, no change
Rear Yard Setback	20 ft	Existing, no change
Maximum Lot Coverage	85%	Existing, no change
Maximum Building Height	3 stories/40 ft	2 stories (existing)

Site Design	Required	Proposed
Number Parking Stalls	Existing	Existing, no change
Accessible Stalls	Existing	Existing, no change
Loading	No	No
Number Bike Parking Stalls	Existing	Existing, no change
Landscaping	Yes	Existing, no change
Lighting	Yes	Existing, no change
Building Forms	Yes	Existing, no change

*Table Prepared by Jacob Moskowitz, Assistant Zoning Administrator*

**Environmental Corridor Status:** The subject site is not within a mapped environmental corridor.

**Public Utilities and Services:** This property is served by a full range of urban services, with seven-day Madison Metro service along Atwood Avenue.

## Related Approvals

On June 2, 2020, the Common Council, based on the recommendation of the Alcohol License Review Committee (ALRC), approved a 21+ Entertainment License [MGO§38.06(11)(c)] for Ohio Tavern (Legistar ID# [60526](#)). The Council did not place any conditions on the approval.

## Project Description

The applicant intends to establish a restaurant-nightclub in a mixed-use building at 224 Ohio Avenue. The applicant currently operates a restaurant-tavern on site, and proposes to offer live music. No exterior or interior changes to the building are planned at this time. The proposed hours of operation are Sunday to Monday, 4:00 p.m. to 12:00 a.m. and Tuesday to Saturday, 4:00 p.m. to 2:00 a.m. Live music would be scheduled 7:00 p.m. to 10:00 p.m.

Their Entertainment License, obtained from the Common Council on June 2, 2020, is a 21+ Entertainment License, which allows for live music performances.

## Analysis and Conclusion

This proposal is subject to the standards for Conditional Uses [MGO §28.183] as Table 28D-2 [MGO §28.061] lists a *restaurant-nightclub* as a conditional use in the Traditional Shopping Street (TSS) District. The Supplemental Regulations [MGO §28.151] contain further regulations for this use.

### Conformance with Adopted Plans

The [2018 Comprehensive Plan](#) recommends Neighborhood Mixed Use (NMU) development for the subject site. Staff believes that the proposed use is consistent with the NMU land use category. The site also falls under the [Schenk-Atwood-Starkweather-Worthington Park Neighborhood Plan](#) (2000).

### Conditional Use Standards

The conditional use approval standards state that the Plan Commission shall not approve a conditional use without due consideration of the City's adopted plan recommendations, design guidelines, supplemental regulations, and finding that all of the conditional use standards of MGO §28.183(6) are met. Please note, recent changes to state law requires that conditional use findings must be based on "substantial evidence" that directly pertains to each standard and not based on personal preference or speculation.

Given due consideration, the Planning Division anticipates that the conversion of the existing restaurant-tavern into a restaurant-nightclub use should not result in significant negative impacts to the surrounding properties. If approved, the Plan Commission retains continuing jurisdiction over this conditional use, meaning that should complaints be filed, the Plan Commission could take further action on this conditional use as allowed in MGO Section 28.183(9)(d).

Staff believes that the Conditional Use Standards can be found met.

### Supplemental Regulations

According to Table 28D-2 [MGO §28.060], a *restaurant-nightclub* must adhere to the Supplemental Regulations found in MGO §28.151:

- a) Maximum capacity to be established by the Director of Building Inspection Division, not to exceed the number of available seats, plus staff, plus a reasonable number of people waiting for seats.
- b) Must serve food at all hours it is open.
- c) Shall hold an entertainment license under Sec. 38.06(11).
- d) Shall at all times operate consistent with and according to the requirements of a valid alcohol license issued by the City.

With the applicant already having obtained their Entertainment License, and the conditions of approval, the Planning Division believes that all of the Supplemental Regulations can be found met.

## Conclusion

Staff believe that the proposed restaurant-nightclub can be found to meet the Conditional Use Approval Standards and recommends that it be approved by the Plan Commission, subject to input at the public hearing and comments from reviewing agencies.

At the time of report writing, staff was not aware of any concerns about this request.

## Recommendation

### Planning Division Recommendation (Contact Lisa McNabola, 243-0554)

The Planning Division recommends that the Plan Commission find that the approval standards for conditional uses are met and **approve** the request to allow a restaurant-nightclub in the Traditional Shopping Street (TSS) District at 224 Ohio Avenue. This recommendation is subject to input at the public hearing and the following conditions:

### **Recommended Conditions of Approval** Major/Non-Standard Conditions are Shaded

#### Planning Division (Contact Lisa McNabola, 243-0554)

1. That the hours of operation shall be Sunday to Monday, 4:00 p.m. to 12:00 a.m. and Tuesday to Saturday, 4:00 p.m. to 2:00 a.m. as stated in the letter of intent. In the future, the Director of the Planning Division may consider a minor alteration to the conditional use to further modify the hours of operation following a recommendation by the district alder.

#### Zoning (Contact Jacob Moskowitz, 266-4560)

2. Maximum capacity to be established by the Director of the Building Inspection Division, not to exceed the number of available seats, plus staff, plus a reasonable number of people waiting for seats.
3. Must serve food at all hours it is open

#### Fire Department (Contact William Sullivan, 261-9658)

4. The maximum capacity shall remain at 49 persons.

**The following agencies reviewed the request and recommended no conditions of approval:** Parks Division and City Engineering Division – Mapping Section.