

PLANNING DIVISION STAFF REPORT

NOVEMBER 30, 2016 URBAN DESIGN COMMISSION

DECEMBER 12, 2016 PLAN COMMISSION



Project Address: 801 E. Washington Avenue

Application Type: Conditional Use

Legistar File ID # [44825](#)

Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted.

Reviewed By: Heather Stouder, Director, Planning Division

Summary

Applicant: Otto C. Gebhardt III, Gebhardt Development, LLC; 222 North Street; Madison; Lee Christensen, representative.

Property Owner: City of Madison.

Requested Actions: Approval of a conditional use in the TE (Traditional Employment) zoning district to allow construction of an up to eight-story commercial/ office building containing 152,925 square feet of floor area, including a 40,000 square-foot theater/ concert hall on land generally addressed as 801 E. Washington Avenue in Urban Design District 8, with auto parking to be provided off-site.

Proposal Summary: The applicant is proposing to construct either a four-story or eight-story commercial building on land to be acquired from the City. The four-story version of the project includes 52,900 square feet of retail and office space to be located surrounding a two-story, 40,025 square-foot theater/ concert hall. The eight-story version of the project calls for an additional 40,000 to 60,000 square feet of office space to be constructed above the four-story retail/ office/ entertainment complex. The applicant wishes to begin construction of the new building in January 2017, with completion anticipated one year later. Parking for the project will be located off-site in a new City-owned and operated parking garage to be constructed in 2017.

Note: This project is a companion project for an nine-story, 158,000 square-foot office building proposed on the adjacent parcel, 819 E. Washington Avenue (ID [44826](#)). The two projects share a common plaza amenity and will be built on approximately the same schedule. However, the projects and required approvals are distinct and will be reviewed separately.

Applicable Regulations & Standards Table 28F-1 in Section 28.082(1) identifies theaters, assembly halls or concert halls; general retail; and restaurants/ taverns and accessory outdoor eating areas as conditional uses in the TE zoning district. Section 28.084(3)(c) limits buildings in TE zoning to five stories and 68 feet of height unless additional height is approved as a conditional use. Table 28I-4 in Section 28.141(5) requires that a vehicle parking reduction of more than 20 spaces and 25% or more of the required parking be approved as conditional use. Section 28.141(13)(b) requires that a reduction in the required number of loading spaces be approved as a conditional use. Section 28.183 provides the process and standards for the approval of conditional use permits. The criteria for new development in Urban Design District 8 are found in Section 33.24(15) of the Urban Design Commission ordinance.

Review Required By: Urban Design Commission and Plan Commission.

Summary Recommendation: The Planning Division recommends that the Plan Commission find the standards met and **approve** a conditional use to allow construction of the proposed retail/ office/ entertainment building at 801 E. Washington Avenue following a recommendation of **initial approval** by the Urban Design Commission and subject to input at the public hearing and the conditions from reviewing agencies beginning on page 9 of this report. In order to recommend approval of the project, the Urban Design Commission shall make specific findings regarding Urban Design District 8.

Background Information

Parcel Location: Following recording of a two-lot Certified Survey Map that will divide the 801 site from the 819 site, an approximately 1.17-acre parcel extending along S. Livingston Street from E. Washington Avenue to E. Main Street; Aldermanic District 6 (Rummel); Urban Design District 8; Madison Metropolitan School District.

Existing Conditions and Land Use: Undeveloped land, zoned TE (Traditional Employment District).

Surrounding Land Uses and Zoning:

North: The Galaxie mixed-use development, zoned TE (Traditional Employment District); The Constellation mixed-use development, zoned PD;

South: Madison Gas & Electric yard and future City parking garage (“Capital East”), zoned TE;

West: Madison Gas & Electric yard, zoned TE;

East: Multi-tenant commercial buildings along E. Washington Avenue, including Robinia Courtyard, Madison Moving & Storage, etc.; one-story storage and commercial buildings along E. Main Street, zoned TE.

Adopted Land Use Plans: The [East Rail Corridor Plan](#) which identifies the site for commercial and industrial uses consistent with the historic use of the property as part of a larger employment center corridor that is centered along E. Main Street and generally extends from E. Washington Avenue to E. Wilson Street.

The [East Washington Avenue Capitol Gateway Corridor Plan](#) recommends the subject block for employment, with opportunities for commercial at the S. Livingston and S. Paterson street corners. The Plan includes specific recommendations for height, building placement, and design which have been codified in MGO 33.24(15) for Urban Design District 8.

The [Comprehensive Plan](#) recommends the subject site and the E. Washington Avenue frontage for Employment uses.

Zoning Summary: The site is zoned TE (Traditional Employment District):

Requirements	Required	Proposed
Lot Area (sq. ft.)	6,000 sq. ft.	51,123 sq. ft. Lot 1 of CSM 87,471 sq. ft. Zoning Lot
Lot Width	50'	154.74' Lot 1 264.74' Zoning Lot
Front Yard	15' Minimum per UDD 8	15' (E. Washington Avenue)
Side Yards (Per UDD 8)	0-10' along Livingston, 0' on interior	0' from west; adequate east
Rear Yard	None (through lot)	15' 8" (E. Main Street)

Requirements	Required	Proposed
Maximum Lot Coverage	85%	96% Lot 1; 92.69% Zoning Lot
Maximum Building Height	5 stories / 68' per zoning; 12 stories along E. Washington Ave.; 8 stories on E Main St. per UDD 8	8 stories / 116'
Auto Parking: General retail, service business, office: 1 per 400 sq. ft. floor area= 4-story building (132); 4-story office tower alternative (up to 150); Restaurant, restaurant-tavern: 15% of capacity of persons (TBD); Theater, assembly hall, concert hall: 20% of capacity of auditorium (500)		0
Bike Parking: General retail, service business, office: 1 per 2,000 sq. ft. floor area:4-story building (26); 4-story office tower alternative (up to 30); Restaurant, restaurant-tavern: 5% of capacity of persons (TBD) Theater, assembly hall, concert hall: 5% of the capacity of auditorium (125)		83
Loading	2 (10' x 50'); 3 (10' x 50') with 4 story tower alternative	3 loading docks
Building Forms	Flex Building	Complies with requirements
Other Critical Zoning Items		
Yes:	Urban Design (Urban Design Dist. 8), Barrier Free, Utility Easements, Wellhead Protection (WP 24)	
No:	Floodplain, Landmarks, Waterfront Development, Adjacent to Park	
<i>Prepared by: Jenny Kirchgatter, Assistant Zoning Administrator</i>		

Environmental Corridor Status: The property is not located in a mapped environmental corridor.

Public Utilities and Services: The site is served by a full range of urban services, including seven-day Metro Transit service along E. Washington Avenue, with stops in the Livingston Street intersection. Service on weekdays occurs every half-hour; service on weekends is once per hour.

Previous Approval

On July 9, 2012, the Plan Commission approved a demolition permit for 801-819 E. Washington Avenue to allow three former Don Miller auto sales and service buildings on the 1.4-acre site to be razed in order to begin the phased remediation of the properties in anticipation of future redevelopment by others.

Project Description – “The Cosmos”

The applicant, Gebhardt Development, LLC, is requesting conditional use approval to construct an up to eight-story commercial/ office building containing up to 152,925 square feet of floor area, including a 40,000 square-foot theater/ concert hall on land to be acquired from the City. The approximately 1.17-acre parcel extends along S. Livingston Street from E. Washington Avenue to E. Main Street and is undeveloped following the demolition of the auto sales business that formerly occupied the property by the City in late 2012. The site is one of three acquired by the City from the Don Miller Auto Group in the summer of 2011 using land banking

funds. The other two sites are located across E. Washington Avenue from the site and have been or are being developed by the applicant with the Constellation and Galaxie mixed-use developments.

The applicant is seeking approval of two versions of the proposed “Cosmos” development that call for a four-story base that may include four-additional stories to be built above the base as a second phase. The applicant has indicated verbally to staff that he will proceed with either the four-story version of the building or the eight-story version at commencement; however, the application is structured to allow the applicant to proceed with the additional stories later if so desired.

The four-story base of the Cosmos project includes 52,900 square feet of retail and office space to be located surrounding a two-story, 40,025 square-foot theater/ concert hall to be owned and operated by Frank Productions. Moving from north to south, the first floor of the proposed building will be developed with an undisclosed amount of retail space that will extend along the E. Washington Avenue frontage, which may be subdivided into at least two spaces based on the entry vestibules shown. The proposed entertainment venue will occupy most of the remaining first floor area of the building with the exception of a small office tenant space to be located at the southwesterly corner of the first floor. The first floor of the concert hall will feature a large lobby, lower seating area, stage, restrooms, and support spaces adjacent to the stage for equipment and dressing rooms, and for ticketing adjacent to the main entrances to the venue, which will face S. Livingston Street. A loading dock for the concert facility will be located at the southeasterly corner of the building and will face E. Main Street. The letter of intent indicates that the Frank concert hall will have a total capacity of 2,500 persons.

At the second floor, the applicant proposes general office spaces adjacent to E. Washington Avenue and E. Main Street, with the second floor of the Frank concert venue located mid-block, including a bar, balcony seating and additional restrooms. Finished floor area on the third floor of the four-story base building will consist of office space adjacent to E. Washington Avenue. The remaining volume at the third floor level will be comprised of the air space above the entertainment venue. Rooftop mechanical units enclosed with architectural metal screening are proposed at the third floor level adjacent to E. Main Street. The fourth floor of the base building will be stepped back from most of the third floor space below and will include office space extending from E. Washington south above the concert hall, with a covered terrace in the stepback.

The eight-story version of the project calls for 40,000 to 60,000 square feet of office space to be constructed on four additional floors above the four-story base building. The four upper stories will be set back from the lower four stories as depicted on Sheet A203.

The exterior of the retail/ office portions of the Cosmos building will primarily be clad in a combination of utility brick, fiber cement panel and metal panel, while the Frank Productions entertainment venue will feature an exterior comprised of weathered steel panels. The weathered steel treatment is proposed to wrap around the E. Washington façade along a portion of the first floor.

The proposed building will observe a 15-foot setback along E. Washington Avenue in accordance with the setback required along that corridor by Urban Design District 8 (“UDD 8”). At its closest point, the building will be setback three inches from the S. Livingston Street right of way at the northwestern corner of the concert hall. The rest of the westerly wall will be setback between 10 feet and 37.1 feet from the adjacent S. Livingston Street, with the greatest setback at the southwestern corner of the building, where an existing underground utility easement restricts building placement. This easement area will be improved as a hardscaped courtyard that will primarily be used as queuing for the concert hall. A 15-foot setback is proposed along E. Main Street, also in accordance with UDD 8 requirements.

The Spark: The Cosmos project is a companion project for an eight-story, 158,000 square-foot office building proposed on the adjacent parcel, 819 E. Washington Avenue (ID [44826](#)), which is known as “The Spark.” The two projects will share an approximately 35-foot wide common plaza amenity between the two buildings. Some of the bike parking to serve the projects will also be shared. However, the projects are distinct and will be reviewed separately. Sheet C200 shows the boundary between the two projects.

Auto Parking: No auto parking is proposed onsite to serve the proposed Cosmos retail/ office/ entertainment complex, which requires that the Plan Commission grant a conditional use to fully waive the zoning requirement to provide auto parking per the Zoning Code.

The City’s adopted 2016 and 2017 capital budgets include \$13 million to build a 600-stall parking garage to serve the Capitol East District on land currently owned by Madison Gas and Electric at the southeasterly corner of E. Main and S. Livingston streets. The proposed “Capitol East Parking Structure” will also include 5,000 square feet of ground floor commercial space along E. Main Street. The Parking Utility will own and operate the facility. During daytime work hours Monday through Friday, up to 550 of the 600 stalls will be leased to American Family Insurance, owner of The Spark, and Gebhardt Development for the employees within the 801 and 819 buildings between the hours of 6:00 AM and 6:00 PM. The remaining 50 stalls (as well as any additional stalls not leased or being used) will be available for hourly public parking for daytime usage on weekdays and will be operated similar to other Parking Utility structures. On evenings after 6:00 PM and on weekends, the Parking Utility will operate the entire structure for hourly and special event parking similar to its downtown structures. Detailed information on the development agreement for The Spark, The Cosmos, and the Capitol East Parking Structure may be found under File [ID 44762](#), which was adopted by the Common Council on November 1, 2016.

Gebhardt Development will lease 275 of the 550 leasable stalls from the Parking Utility to serve The Cosmos. The Zoning Administrator has determined that 132 stalls are required to serve the four-story version of the building notwithstanding any restaurant or tavern uses of the first floor space, which may increase that number. An additional 150 stalls are required to serve the 40,000-60,000 square feet of additional office space if the eight-story version of the project is constructed. The concert hall would require 500 stalls based on twenty percent of its proposed occupancy of 2,500, though it is likely that usage of the concert venue will primarily occur outside the lease hours and peak usage of the garage by office users.

Per Section 28.141(5) of the Zoning Code, factors to be considered when granting a parking reduction include but are not limited to: availability and accessibility of alternative parking, impacts on adjacent residential neighborhoods; existing or potential shared parking agreements; number of residential parking permits issued for the area; proximity to transit routes and/or bicycle paths and provision of bicycle parking; the characteristics of the use, including hours of operation and peak parking demand times; design and maintenance of off-street parking that will be provided; and whether the proposed use is new or an addition to an existing use.

In this case, staff believes that the above-mentioned development agreement and applicant’s lease of a portion of the spaces to be furnished in the nearby City parking garage will provide adequate vehicular parking for the proposed retail/ office/ entertainment complex to allow a full parking reduction to be approved. The 275 stalls available should be adequate to serve the project between 6:00 AM and 6:00 PM when the office usage is likely to be highest, given that many of the office users will likely commute to the site by other means, including by bike and transit. Although the users of the retail space on the first floor are not fully known and some uses of that space may drive a higher number of required stalls, staff believes that the parking to be made available in the new City parking structure and on surrounding streets south of E. Washington Avenue should provide enough auto parking to serve the project. Likewise, given that the concert hall will most often see peak usage at

different hours than peak use of the garage by Cosmos office tenants, staff believes that adequate auto parking exists proximate to the venue to support the waiver specific to that use.

Bike Parking: Most of the bike parking that will serve the project will be located offsite in the public right of way and therefore may not be counted towards zoning-required bike parking. It appears that 14 bike racks will be provided on The Cosmos site, with another 26 located adjacent in the E. Main Street and S. Livingston Street rights of way, for 80 bike spaces (two per rack) (the plans note that 83 are provided and that additional will be available on The Spark site). Zoning staff has determined that 26 stalls are required for the retail and office uses in the four-story building, which increases to 56 for the eight-story version, notwithstanding a restaurant/ tavern use. Up to 125 stalls are required for the concert venue. Bike parking reductions are approved by the Zoning Administrator as outlined in Section 28.141(5) of the Zoning Code. Factors to be considered by the Zoning Administrator include but are not limited to: availability, proximity, and use characteristics of public bike parking in the public right of way within 200 feet of the subject property; existing or potential shared parking agreements; proximity to transit routes and/or multi-use paths; characteristics of the use, including hours of operation and peak parking demand times; design and maintenance of off- street bicycle parking, and whether the use is existing or is an addition to an existing use.

The proposed bike parking in the right of way will require approval of a privilege in streets administered by the City's Office of Real Estate Services. If the parking in the right of way is approved, the amount of bike parking to serve the retail, office and any restaurant/ tavern uses in the project should be adequate. However, the Planning Division believes that additional opportunities for bike parking should be identified onsite to serve the project, especially the proposed concert venue. While it is unlikely that there is enough space on site to accommodate 40-45 additional bike spaces to bring the parking on- and off-site up to the number of stalls required for the concert venue, staff feels that additional effort should be made to maximize the bike parking to serve the project. A total of 125 bike parking spaces within 200 walking feet of the doors of the concert venue would be considered by staff to be ideal.

Analysis

In addition to the requirement to effectively waive the auto parking required to serve The Cosmos project by conditional use and the conditional use required for a theater, assembly hall or concert hall, the applicant is also requesting conditional uses to construct a building taller than five stories and 68 feet in the TE district (for the eight-story version of the project only), and for general retail uses, restaurants/ taverns and accessory outdoor eating areas.

The Planning Division generally believes that the conditional use standards can be met for the proposed retail/ office/ entertainment complex. Staff believes that the project should not have an adverse impact on the uses, values and enjoyment or normal and orderly development of surrounding properties. While we are aware of concerns that have been expressed by some in the community about the proposed entertainment venue and the potential for it to impact the viability of other similar existing venues, staff does not believe that such questions about competition are germane to the Plan Commission's consideration of the project. Planning staff also believes that, while unique, the proposal to provide auto parking for the project in the proposed nearby parking garage under agreement with the City will satisfy the conditional use standards related to providing adequate access, circulation and *auto* parking for the development. Staff will work with the applicant prior to permit issuance to ensure that adequate bike parking has been provided for The Cosmos and adjacent Spark both on- and off-site, including increasing the bike parking to be provided consistent with the 125 bike stalls required for the proposed concert hall.

Staff also believes that the project is also consistent with the many recommendations contained in the East Rail Corridor Plan, East Washington Avenue Capitol Gateway Corridor Plan, and Comprehensive Plan. All three plans generally recommend that the subject site and neighboring properties in the 800-block of E. Washington Avenue be developed with employment uses, with the first floor retail uses generally proposed along E. Washington Avenue also consistent with the Capitol Gateway Corridor Plan recommendation for commercial uses at the S. Livingston Street corner. The East Rail Corridor Plan identifies the site and surrounding properties located on the south side of E. Washington Avenue for commercial and industrial uses as part of a larger planned employment center corridor centered along E. Main Street. Development in this corridor is encouraged to develop at “urban” densities characterized by multi-story buildings and relatively high lot coverage to the extent feasible, with structured parking and shared parking facilities also encouraged to reduce the amount of land needed for parking. Both the Capitol Gateway Corridor Plan and East Rail Corridor Plan recommend that retail sales and service businesses should be primarily focused on meeting the needs of employees, customers and residents in the corridors and adjacent neighborhoods, with an emphasis on uses that generate pedestrian activity, including outdoor eating areas.

The Cosmos is also required to satisfy the requirements for new development in Urban Design District 8, which was established to improve the appearance and function of properties located between E. Mifflin and E. Main streets from Blair to First streets, centered on E. Washington Avenue, and to guide all new development and redevelopment in that corridor. UDD 8 was designed as the primary implementation mechanism for the East Washington Avenue Capitol Gateway Corridor Plan, which emphasizes protection of the view of the State Capitol, and the creation of a vibrant, transit-oriented, employment-focused corridor.

The proposed building appears to meet the setback requirements as stipulated for Blocks 12a and 12b in Section 33.24(15)(e)3 of the Urban Design Commission code. The eight-story version of the building will also provide the required 45-degree stepback for the upper four stories above the four-story base along E. Washington Avenue, as required in Section 33.24(15)(e)12a.

However, the four-story version of the project is seeking relief from the minimum façade height of three stories adjacent to E. Main Street. The applicant suggests that the proposed 32-foot tall two-story portion of the building complies with the height in feet of that portion of the building if not the prescribed number of stories. Staff believes that the mass of that portion of the base is acceptable despite being technically deficient a story due to the height in feet and articulation of that portion of the building. However, for the four-story addition/second phase of the building, which the applicant proposes to cantilever over the lower portion of the building, staff feels that the design appears incomplete and recommends that the area between the roof of the second floor and the base of the fifth floor be fully enclosed within the building mass with an exterior treatment consistent with the rest of the building (materials, openings, articulation, etc.). Final design of this portion of the eight-story building should be approved by the Urban Design Commission and Planning Division staff prior to final plan approval and issuance of permits for construction.

The eight-story version of the building also does not appear to meet the 45-degree stepback requirement above five stories in Block 12b adjacent to E. Main Street. For new buildings on Blocks 2b, 2c, 3b, 4b, 10-16, and 17c, Section 33.24(15)(e)12a requires that any mass above five stories that exceeds a footprint of 130 feet on any side parallel to E. Washington Avenue and 200 feet on any side perpendicular to E. Washington Avenue shall have a stepback of 45 degrees, unless the Urban Design Commission approves a maximum of ten percent increase in the footprint due to structural or other constraints. The applicant should establish how the stepback affects the floor area of the portions of the building above the fifth floor adjacent to E. Main Street, and how the

ten percent increase in footprint applies for the purposes of the Urban Design Commission making a finding on this provision.

Finally, the portion of the proposed eight-story building adjacent to E. Main Street will application of the bonus stories criteria for the additional feet above grade proposed. While an eight-story building is allowed in Block 12b per UDD 8, the ordinance limits the number of feet per story to an average of 9-12 per floor above the first, where an 11-15 foot story height is allowed. The proposed eight-story building will stand 116 feet tall, which will exceed the 99 feet allowed based on 12 feet per floor on floors 2-8, and 15 feet for the first floor. The project is eligible for up to two bonus stories and 123 feet of total height pursuant to the criteria in Section 33.24(15)(e)12c.i or c.ii. Of those, the project may be eligible for bonus stories under the LEED Gold certification or equivalent or on-site publicly accessible plaza/ pocket park (1 to 5 ratio) in subsection i., or some combination in subsection ii. sufficient to warrant additional height of: LEED Silver certification or equivalent; on-site publicly accessible plaza/ pocket park (1 to 10 ratio); a minimum of 50 percent vegetative roof cover; through-block multi-modal connection; and adequately sized, publicly available community meeting room.

Conclusion

In general, the Planning Divisions believes that the proposed Cosmos retail/ office/ entertainment complex can meet the standards for conditional use approval. The proposed building is generally well designed in both its four-story and eight-story variations, and appears to comply with many of the requirements in Urban Design District 8 and generally with the recommendations for the subject site in the East Rail Corridor Plan, East Washington Avenue Capitol Gateway Corridor Plan, and Comprehensive Plan. While the project includes substantial retail and entertainment components, the project is focused on creating new office/ employment space in fulfillment of the plan recommendations for the corridor dating back over a decade. Staff is confident that questions surrounding bike parking and final design details for the eight-story version of the building can be adequately addressed prior to final plan approval and issuance of building permits.

However, approval of the project will require special consideration by the Urban Design Commission of how the project meets the tenets of UDD 8 in order to proceed. In particular, the project:

- is seeking relief from the minimum façade height of three stories adjacent to E. Main Street where a 32-foot tall, two-story portion of the building is proposed;
- does not meet the 45-degree stepback requirement above five stories in Block 12b adjacent to E. Main Street for the eight-story version of the building; the applicant should establish how the required stepback affects the floor area of the portions of the building above the fifth floor adjacent to E. Main Street, and how the ten percent increase in footprint applies for the purposes of the Urban Design Commission making a finding on this provision in consideration of structural or other constraints per UDD 8; and
- requires a finding that the criteria for bonus stories in Section 33.24(15)(e)12c.i or c.ii are met to allow the portion of the eight-story adjacent to E. Main Street on Block 12b to exceed 99 feet (116 feet are proposed).

Recommendation

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 construction of the proposed retail/ office/ entertainment building at 801 E. Washington Avenue

following a recommendation of **initial approval** by the Urban Design Commission and subject to input at the public hearing, the following Planning Division condition(s) and the conditions from reviewing agencies:

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

1. That the floorplans on Sheet A203 be revised prior to final plan approval and issuance of building permits to dimension the setbacks for the proposed upper four stories from the four base stories.
2. Prior to the issuance of any permits for a restaurant, restaurant/ tavern or tavern use in the first floor retail space (and any accessory outdoor eating areas), the applicant shall obtain approval of a conditional use alteration from the Director of the Planning Division or Plan Commission following a recommendation by the district alder. The alteration shall include the hours of operation for those uses, a floorplan with estimated capacity, and any exterior alterations related to occupancy of those spaces. Any exterior aspects of those uses shall also require approval by the Urban Design Commission or its Secretary prior to permit issuance.
3. For the eight-story version of the building, the applicant shall eliminate the cantilever of the upper four stories over the mechanical space on the lower portion of the building by enclosing the area between the roof of the second floor and the base of the fifth floor within the building mass with an exterior treatment consistent with the rest of the building (materials, openings, articulation, etc.). Final design of this portion of the eight-story building shall be approved by the Urban Design Commission and Planning Division staff prior to final plan approval and issuance of permits for construction.
4. The applicant shall obtain a privilege in streets from the City's Office of Real Estate Services for the approximately 52 bike spaces shown in the rights of way of E. Main Street and S. Livingston Street prior to final plan approval and issuance of building permits. Additionally, the applicant shall work with the Planning Division, Zoning Administrator and Traffic Engineering Division to provide additional bike parking on the subject site prior to issuance of permits, with the goal of providing 125 bike parking spaces within 200 walking feet of the doors of the concert venue.

The following conditions have been submitted by reviewing agencies:

City Engineering Division (Contact Brenda Stanley, 261-9127)

5. The applicant shall provide projected wastewater flows for the proposed development to Mark Moder, mmoder@cityofmadison.com prior to plan approval. The developer may be required to build sewer improvements in E. Washington Avenue at Paterson Street or at Livingston Street depending on projected wastewater flows.
6. The site plan shall be revised to show all existing public sanitary sewer facilities in the project area as well as the size, invert elevation, and alignment of the proposed service.
7. All outstanding Madison Metropolitan Sewerage District (MMSD) are due and payable prior to City Engineering sign-off, unless otherwise collected with a Developer's/ Subdivision Contract. Contact Mark Moder (261-9250) to obtain the final MMSD billing a minimum of two working days prior to requesting City Engineering signoff.

8. This project falls in the Rock River TMDL Zone and is subject to increased erosion control enforcement. The project will be expected to meet a higher standard of erosion control than the minimum standards set by the Wisconsin Department Natural Resources (WDNR).
9. The applicant shall submit, prior to plan sign-off, a digital CAD file (single file) to the City Engineering Division (Storm/Sanitary Section). The digital CAD file shall be to scale and represent final construction. The CAD file shall be in a designated coordinate system (preferably Dane County WISCRS, US Ft). The single CAD file submittal can be either AutoCAD (dwg) Version 2013 or older, MicroStation (dgn) V8i Select Series 3 or older, or Universal (dxf) format and shall contain the only the following data, each on a separate layer name/level number. The digital copies shall be drawn to scale and represent final construction including: building footprints; internal walkway areas; internal site parking areas; other miscellaneous impervious areas (i.e. gravel, crushed stone, bituminous/asphalt, concrete, etc.); right-of-way lines (public and private); plat name and lot lines (metes & bounds parcel lines if unplatted); platted lot numbers (noted "unplatted lands" if not platted); lot/plat property dimensions; street names; private on-site sanitary sewer utilities (including all connections to public sanitary); private on-site storm sewer utilities (including all connections to public storm). The CAD file will only be required prior to final plan review so that multiple files do not need to be supplied or reviewed. The party responsible for the CAD file e-mail transmission shall include the project site address in the email subject line. Any changes or additions to the location of the building, private utilities, sidewalks, parking/pavement during construction will require a new CAD file transmittal.
10. The applicant shall submit prior to plan sign-off, electronic copies of any Stormwater Management Files including: a) SLAMM DAT files; b) RECARGA files; c) TR-55/HYDROCAD/Etc; d) 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.
11. The area adjacent to this proposed development has a known flooding risk. All entrances shall be 2 feet above the adjacent sidewalk elevation or 1-foot above the 100-year regional flood elevation (whichever is greater). This includes garage entrances.
12. This project appears to require construction dewatering. A dewatering plan shall be submitted to City Engineering as part of the Erosion Control Permit application and plan. If contaminated soil or groundwater conditions exist on or adjacent to this project additional WDNR, Public Health, and/or City Engineering approvals may be required prior to the issuance of the required Erosion Control Permit.
13. This project appears to require permanent dewatering. A permit to connect to the public stormwater system shall be required from City Engineering. Additionally, a permit for non-storm discharge to the storm sewer system from the Madison-Dane County Public Health Department shall also be required. If contaminated soil or groundwater conditions exist on or adjacent to this project additional WDNR, Public Health, and/or City Engineering approvals may be required prior to issuance of the connection and non-storm discharge permits.
14. Storm sewer to serve this development has been designed and constructed. The site plans shall be revised to identify the location of this storm sewer and to show connection of an internal drainage system to the existing public storm sewer.
15. This site appears to disturb over one acre of land and requires a permit from the Wisconsin Department of Natural Resources (WDNR) for stormwater management and erosion control. The City of Madison has been required by the WDNR to review projects for compliance with NR-216 and NR-151; however a separate

permit submittal is still required to the WDNR for this work. The City of Madison cannot issue our permit until concurrence is obtained from the WDNR via their Water Resources Application for Project Permits (WRAPP) or Notice of Intent Permit (NOI) permit process.

16. This project will require a concrete management plan as part of the erosion control plan to be reviewed and approved by the City Engineer's Office.
17. The lots within this site plan are interdependent upon one another for stormwater runoff conveyance, and/or a private drainage system exists for the entire site an agreement shall be provided for the rights and responsibilities of all lot owners. Said agreement shall be reviewed and placed on file by the City Engineer, referenced on the site plan, and recorded at the Dane County Register of Deeds.
18. Prior to approval, this project shall comply with MGO Chapter 37 regarding stormwater management. Specifically, this development is required to reduce TSS by 80% off of the proposed development when compared with the existing site.
19. 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 Madison General Ordinances.
20. The construction of this building will require sanitary sewer, sidewalk improvements and possibly other parts of the City's infrastructure. The applicant shall enter into a City/ Developer agreement for the improvements required for this development. The applicant shall contact City Engineering to schedule the development of the plans and the agreement. The City Engineer will not sign off on this project without the agreement executed by the developer. Note: Obtaining a developer's agreement generally takes approximately 4-6 weeks, minimum.
21. The approval of this zoning approval does not include the approval of the changes to roadways, sidewalks or utilities. The applicant shall obtain separate approval by the Board of Public Works and the Common Council for the restoration of the public right of way including any changes requested by developer. The City Engineer shall complete the final plans for the restoration with input from the developer.
22. The applicant shall provide the City Engineer with a survey indicating the grade of the existing sidewalk and street. The applicant shall hire a Professional Engineer to set the grade of the building entrances adjacent to the public right of way. The applicant shall provide the City Engineer the proposed grade of the building entrances. The City Engineer shall approve the grade of the entrances prior to signing off on this development.
23. The applicant shall replace all sidewalk and curb and gutter that abuts the property that is damaged by the construction, or any sidewalk and curb and gutter, which the City Engineer determines needs to be replaced because it is not at a desirable grade, regardless of whether the condition existed prior to beginning construction.
24. All work in the public right of way shall be performed by a City-licensed contractor.
25. All damage to the pavement on E. Washington Avenue, E. Main Street and S. Livingston Street adjacent to this development shall be restored in accordance with the City's Pavement Patching Criteria.

26. Per the WDNR closure letter, this property was closed with residual soil and/or groundwater contamination (BRRTS #02-13-577635). Written approval from the WDNR is required prior to disturbing the existing barrier cap. Proof of coordination with the WDNR shall be submitted to Brynn Bemis (608.267.1986, bbemis@cityofmadison.com).
27. Based on the WDNR records for BRRTS #02-13-577635, the property contains residual contaminated soil. If contaminated soil is encountered as part of this redevelopment, all WDNR and DSPS regulations must be followed for proper handling and disposal.

City Engineering Division – Mapping Section (Contact Jeff Quamme, 266-4097)

28. The pending Certified Survey Map application for this property shall be completed and recorded with the Dane County Register of Deeds (ROD) prior to issuance of any building permits for new construction. When the recorded CSM image is available from the ROD, the Assessor's Office can then create the new Address-Parcel- Owner (APO) data in the parcel database so that the permitting system can upload this data and permit issuance made available for this new land record.
 29. Subsequent to the recording of the pending Certified Survey Map, the conveyance of the new lot to the developer shall be completed prior to final site plan sign off.
 30. The Site Plan indicates bicycle racks that will encroach into the S. Livingston and E. Main Street right of way. The applicant shall confirm all other portions of the proposed building and/or any private site improvements that will encroach into the adjacent right of ways. This includes (not limited to) balconies, roof overhangs and underground vaults. The applicant shall make an application with City of Madison for a privilege in streets administered by the City of Madison Office of Real Estate Services. An approval of the development does not constitute or guarantee approval of any encroachments within a public right of way.
 31. The applicant shall provide for review a reciprocal easements/agreement between this site and the proposed Spark site to the east including, but not limited to, access, pedestrian access, fire lane, utilities, common areas, storm water drainage and management that are necessary to accomplish the development as proposed. The document(s) shall then be executed and recorded and copies provided prior to building permit issuance.
 32. The proposed public sidewalk easement adjacent to E. Main Street shall be added to the pending CSM. Contact Jeff Quamme (jrquamme@cityofmadison.com) for required easement language.
33. Submit a PDF of all floor plans to lzenchenko@cityofmadison.com so that a preliminary addressing plan can be developed prior to plans being submitted for permit review. If there are any changes pertaining to the location of a unit, the deletion or addition of a unit, or to the location of the entrance into any unit, (before, during, or after construction) the addresses may need to be changed. The interior address plan is subject to the review and approval of the Fire Marshal.

Traffic Engineering Division (Contact Eric Halvorson, 266-6527)

34. It is recommended the applicant conclude any parking negotiations with the Parking Utility prior to final sign-off.

35. Items in the Right-of-Way are not approvable through this process, work with City Real Estate to get a 'Privilege in Streets' permit for items in the Right-of-Way (bicycle racks, planters, etc.) A note shall be stating 'All items in the Public Right-of-Way are the sole jurisdiction of City Engineering and Traffic Engineering and maybe modified/removed at anytime based on assessment of public need.
36. The applicant shall enter into a developer's agreement for the installation of the pedestrian street lighting.
37. 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.
38. The developer shall post a security deposit prior to the start of development. In the event that modifications need to be made to any City-owned and/or maintained traffic signals, street lighting, signing, pavement marking and conduit/handholes, the developer shall reimburse the City for all associated costs including engineering, labor and materials for both temporary and permanent installations.
39. The City Traffic Engineer may require public signing and marking related to the development; the developer shall be financially responsible for such signing and marking.
40. All parking facility design shall conform to the standards in MGO Section 10.08(6).
41. All bicycle parking adjacent pedestrian walkways shall have a 2 foot buffer zone to accommodate irregularly parked bicycles and/or bicycle trailers.
42. The applicant shall adhere to all vision triangle requirements as set in MGO 27.05 (No visual obstructions between the heights of 30 inches and 10 feet – 25 feet behind the property line at streets and 10 feet at driveways.). Alteration necessary to achieve compliance may include but are not limited to; substitution to transparent materials, removing sections of the structure and modifying or removing landscaping elements. If applicant believes public safety can be maintained they shall apply for a reduction of MGO 27.05(2)(bb) - Vision Clearance Triangles at Intersections Corners. Approval or denial of the reduction shall be the determination of the City Traffic Engineer.

Zoning Administrator (Contact Jenny Kirchgatter, 266-4429)

43. Staff is anticipating that future conditional uses for general retail, food and related goods sales, restaurant, restaurant-tavern, and outdoor eating area associated with food and beverage establishment will be sought as tenants are indentified for spaces in the building. These conditional uses will require additional approvals from the Plan Commission.
44. Provide a calculation and plan detail for lot coverage with the final site plan submittal. The lot coverage maximum is 85%. Lot coverage is defined as the total area of all buildings, measured at grade, all accessory structures including pools, patios, etc., and all paved areas as a percentage of the total area of the lot, with

the following exceptions: sidewalks or paved paths no wider than five (5) feet, pervious pavement, green roofs and decks.

45. Vehicle parking will not be provided on the property. Per Section 28.141(5) Adjustments to Minimum Number of Required Spaces, submit information to support the argument for reducing the required number of spaces. Factors to be considered include but are not limited to: availability and accessibility of alternative parking, impacts on adjacent residential neighborhoods; existing or potential shared parking agreements; number of residential parking permits issued for the area; proximity to transit routes and/or bicycle paths and provision of bicycle parking; the characteristics of the use, including hours of operation and peak parking demand times; design and maintenance of off-street parking that will be provided; and whether the proposed use is new or an addition to an existing use.
46. A bicycle parking reduction will be required per Section 28.141(5). Work with Zoning staff to establish the minimum bicycle parking requirements for the proposed development. Note that proposed bicycle parking located within the public right of way does not count toward the minimum requirement.
47. As each tenant space is leased, vehicle and bicycle parking requirements will be reviewed prior to obtaining Zoning approval for each future tenant space use. Future vehicle and bicycle parking reductions may be required prior to obtaining Zoning approval for future tenant uses.
48. Any future use or development will require approvals from the Madison Water Utility, as a portion of the site is located within Wellhead Protection District 24.
49. Required loading facilities shall comply with MGO Section 28.141(13). Provide three 10' x 50' loading areas with 14-foot vertical clearance to be shown on the plan. The loading areas shall be exclusive of drive aisle and maneuvering space. The required number of loading spaces may be reduced through conditional use approval.
50. Bicycle parking shall comply with the requirements of Sections 28.141(4)(g) and 28.141(11). Work with Zoning staff to establish the minimum bicycle parking requirements. Bicycle parking stalls shall be located on the private property and in a convenient and visible area on a paved or impervious surface. Clearly label the bicycle parking locations and numbers of stalls on the final plans. Show the typical dimensions of the bicycle stalls including the access aisles. Note: A bicycle stall is a minimum of 2 feet by 6 feet with a 5-foot wide access area. Provide a detail of the proposed bike racks.
51. Bicycle stalls are proposed in the S. Livingston Street and E. Main Street public rights of way. Note that bicycle stalls located in the public right of way do not count toward the minimum bicycle parking requirement. Privilege in the Streets approval is required through the City of Madison Office of Real Estate Services.
52. A bicycle parking reduction will be required per Section 28.141(5). Submit a request for a bicycle parking reduction with the final plan submittal including information to support the argument for reducing the required number of spaces. As the commercial tenant spaces are leased, the entire development must reflect compliance in the required amount, type and number of bicycle parking spaces, to be reviewed prior to obtaining zoning approval for each future tenant space use. Future parking reductions may be required prior to obtaining zoning approval for future tenant uses.

53. Submit the landscape plan and landscape worksheet stamped by the registered landscape architect. Per Section 28.142(3), Landscape Plan and Design Standards, landscape plans for zoning lots greater than 10,000 square feet in size must be prepared by a registered landscape architect.
54. Per Section 28.134(3), Capitol View Preservation, show the height of the building per City Datum. No portion of any building or structure located within one (1) mile of the center of the State Capitol Building shall exceed the elevation of the base of the columns of said Capitol Building or 187.2 feet, City datum. Provided, however, this prohibition shall not apply to any church spires, flagpoles, communication towers, elevator penthouses, screened air conditioning equipment on existing buildings and chimneys exceeding such elevation, when approved as conditional uses. For the purpose of this subsection, City datum zero (0.00) feet shall be established as 845.6 feet above sea level as established by the United States Coast and Geodetic Survey.
55. Exterior lighting is not required. However, if it is provided, it must comply with MGO Section 10.085 Outdoor Lighting Standards. If exterior site lighting is provided, submit an exterior lighting plan and fixture cut sheets with the final plan submittal.
56. Per Section 28.186(4)(b), the property owner or operator is required to bring the property into compliance with all elements of the approved site plans by the date established by the Zoning Administrator as part of the site and building plan approval. Work with Zoning staff to establish a final site compliance date.
57. Signage approvals are not granted by the Plan Commission. Signage must be reviewed for compliance with Chapter 31 Sign Codes of MGO and Chapter 33 Urban Design District ordinances. Signage permits are issued by the Zoning Section of the Department of Planning and Community and Economic Development.

Fire Department (Contact Bill Sullivan, 261-9658)

58. Provide a construction phasing plan and what additional safe guards to reduce the risk to building occupants if the proposed phasing of the project goes forward.

59. The Madison Fire Department does not object to this proposal provided the project complies with all applicable fire codes and ordinances.
60. Per Section MGO 34.503/IFC 503 Appendix D105: Provide an aerial apparatus access fire lane that is at least 26 feet wide, if any part of the building is over 30 feet in height. The near edge of the aerial fire lane shall be within 30-feet and not closer than 15 feet from the structure, and parallel to one entire side. The aerial fire lane shall cover not less than 25% of the building perimeter.

Water Utility (Contact Adam Wiederhoeft, 261-9121)

61. A Water Service Application Form and fees must be submitted before connecting to the existing water system. Provide at least two working days notice between the application submittal and the requested installation or inspection appointment. Application materials are available on the Water Utility's Plumbers & Contractors website (<http://www.cityofmadison.com/water/plumberscontractors>), otherwise they may be obtained from the Water Utility Main Office at 119 E. Olin Avenue. A licensed plumber signature is required on all water service applications. For new or replacement services, the property owner or authorized agent

is also required to sign the application. If you have questions regarding water service applications, please contact Madison Water Utility at 266-4646.

62. This property is in a Wellhead Protection District–Zone (WP-24). The owner shall provide the Madison Water Utility with evidence that no hazardous and/or toxic materials will be stored on site, and that all proposed uses of this site comply with the City of Madison Wellhead Protection Ordinance. Any future change in use for this property will require review by the Madison Water Utility General Manager or his designated representative.
63. Madison Water Utility will be required to sign off on the Land Use Application prior to the issuance of building permits for the development.

Metro Transit (Contact Tim Sobota, 261-4289)

This agency did not provide conditions of approval for this request.

Parks Division (Contact Janet Schmidt, 261-9688)

64. City Forestry will permit the removal of two small crabapples on E. Main Street, which will be replaced with larger canopy trees.

65. All street tree planting locations and trees species within the right of way shall be determined by City Forestry. Please submit a site plan (in PDF format) to Brian Meiller – bmeiller@cityofmadison.com or 266-4816. Tree planting specifications can be found in Section 209 of City of Madison Standard Specifications for Public Works Construction.
66. Existing street trees along E Washington Av. shall be protected. Please include the following note on the site plan: Contractor shall install tree protection fencing in the area between the curb and sidewalk and extend it at least 5 feet from both sides of the tree along the length of the terrace. No excavation is permitted within 5 feet of the outside edge of a tree trunk. If excavation within 5 feet of any tree is necessary, contractor shall contact City Forestry (266-4816) prior to excavation to assess the impact to the tree and root system. Tree pruning shall be coordinated with City Forestry. Tree protection specifications can be found in Section 107.13 of City of Madison Standard Specifications for Public Works Construction. Any tree removals that are required for construction after the development plan is approved will require at least a 72 hour wait period before a tree removal permit can be issued by Forestry, to notify the Alder of the change in the tree plan.