

# PLANNING DIVISION STAFF REPORT

June 12, 2023



PREPARED FOR THE PLAN COMMISSION

**Project Address:** 610 Junction Road (9<sup>th</sup> Alder District, Ald. Conklin)  
**Application Type:** Conditional Use  
**Legistar File ID #:** [77013](#)  
**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:** Emin Buzhunashuili; Caspian Grill; 610 Junction Road, Madison, WI 53717

**Property Owner:** 5256 Elmore Avenue, LLC Et Al; P.O. Box 215, Plover, WI 54467

**Requested Action:** Consideration of an alteration to an approved Planned Development District – Specific Implementation Plan (PD-SIP) for 530-610 Junction Road to amend the zoning text to add restaurant-nightclub as a conditional use in the district, and consideration of a Conditional Use to allow a restaurant-nightclub in a mixed-use building at 610 Junction Road.

**Proposal Summary:** The applicant proposes to establish a restaurant-nightclub in a portion of an existing mixed-use building.

**Applicable Regulations & Standards:** §28.098(6) M.G.O. states that alterations to Planned Developments may be approved by the Plan Commission if the requested alterations are consistent with the concept approved by the Common Council using the review standards in §28.098(2) M.G.O. Standards for Conditional Uses are found in §28.183(6) M.G.O. Supplemental Regulations for restaurant-nightclubs are found in §28.151 M.G.O.

**Review Required By:** Plan Commission

**Summary Recommendation:** The Planning Division recommends the following to the Plan Commission regarding the applications for 610 Junction Road. All recommendations are subject to input at the public hearing and the conditions recommended by the reviewing agencies.

- That the Plan Commission find the proposed alteration to amend the zoning text to add restaurant-nightclub as a conditional use in the district consistent with the Specific Implementation Plan approved by the Common Council and the Planned Development standards and **approve** the request; and
- That the Plan Commission find the approval standards for Conditional Uses are met and **approve** the request to allow a restaurant-nightclub at 610 Junction Road.

In the alternative, the Plan Commission has the option to refer this item to a future meeting should they believe that additional information or significant modifications be made in order to address the applicable standards.

## Background Information

**Parcel Location:** The 121,514 square-foot (2.7-acre) parcel is located along Junction Road at the southwest corner of Attic Angels Circle and Junction Court. It is also located within Alder District 9 (Ald. Conklin) and the Madison Metropolitan School District.

**Existing Conditions and Land Use:** The site is occupied by a 40,887 square-foot, two-story mixed-use building built in 2008. The building was remodeled in 2023 to convert a portion of the second story into seven residential units. The site is also occupied by a 51,203 square-foot, five story mixed-use building built in 2018. It is zoned Planned Development District – Specific Implementation Plan (PD-SIP).

**Surrounding Land Use and Zoning:**

North: Across Old Sauk Road, one-story retail, zoned Commercial Corridor (CC) District and Planned Development (PD);

East: Across Junction Road, one-story retail, zoned PD District;

South: Two (2) five-story mixed-use buildings, and two (2) four-story residential buildings, zoned PD District; and

West: Four-story independent and assisted living residential building, zoned PD District.

**Adopted Land Use Plan:** The [2018 Comprehensive Plan](#) recommends Community Mixed-Use (CMU) development for the subject property and properties to the south. Surrounding properties are recommended for a mix of Low-Medium Residential (LMR), General Commercial (GC), and Employment (E). The [Junction Neighborhood Development Plan](#) (2018) recommends Community Mixed-Use (CMU) development for the subject property and properties to the south.

**Zoning Summary:** The property is zoned Planned Development District – Specific Implementation Plan (PD-SIP) District.

Requirements	Required	Proposed
Lot Area (sq. ft.)	As per approved plans	As per submitted plans
Lot Width	As per approved plans	As per submitted plans
Front Yard Setback	As per approved plans	As per submitted plans
Side Yard Setback	As per approved plans	As per submitted plans
Rear Yard Setback	As per approved plans	As per submitted plans
Maximum Lot Coverage	As per approved plans	As per submitted plans
Building Height	As per approved plans	As per submitted plans

Site Design	Required	Proposed
Number Parking Stalls	As per approved plans	155 existing surface stalls at 550 & 610 Junction Rd
Electric Vehicle Stalls	Not required	None
Accessible Stalls	Yes	6
Loading	As per approved plans	As per submitted plans
Number Bike Parking Stalls	Restaurant-nightclub: 5% of capacity of persons (12)	8 existing stalls (6)
Landscaping and Screening	Not required	Existing landscaping
Lighting	Not required	Existing lighting
Building Form and Design	As per approved plans	Existing building

*Table Prepared by Jenny Kirchgatter, 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.

## Project Description, Analysis, and Conclusion

The Planned Development District – Specific Implementation Plan (PD-SIP) for 530-610 Junction Road was approved in 2007 to allow two (2) two-story buildings with retail and office. One two-story building was constructed in 2008. In 2017 an alteration was approved to allow a five-story, mixed-use building with 33 residential units at 550 Junction Road. In 2022 an alteration was approved to convert a portion of the building at 610 Junction Road into 17 studio and one bedroom apartments. A building permit was issued in 2023 to build seven residential units, with the remaining units expected to be built in phases.

The applicant proposes to establish a restaurant-nightclub in an existing multi-tenant commercial building at 610 Junction Road. The applicant already operates a restaurant-tavern in this location. They would like to provide live music, which requires an entertainment license. From a zoning standpoint, this modification would change the use from a restaurant-tavern to a restaurant-nightclub. The current occupancy is 250. The proposed hours of operation are Monday to Thursday, 11 a.m. to 10 p.m., Friday to Saturday, 11a.m. to 2 a.m., and Sunday, 12 p.m. to 4 p.m.

To facilitate this request, there are two requests before the Plan Commission. This includes the request to amend PD-SIP Zoning Text to add restaurant-nightclub as a conditional use. The second request is for the approval of the actual conditional use.

Additionally, the applicant also plans to establish an outdoor seating area which is already listed as a permitted accessory use in the PD-SIP District. As this use is already allowed, only the site plan details, including the location of seating and related amenities, would need to be considered as an alteration to the approved SIP plans. Such a site plan detail is not included in this submittal and not before the Plan Commission at this time. Per the applicant there will not be live outdoor music.

### Conformance with Adopted Plans

The [2018 Comprehensive Plan](#) recommends Community Mixed-Use (CMU) development for the subject site. The [Junction Neighborhood Development Plan](#) (2018) recommends Community Mixed-Use (CMU) development for the subject property and properties to the south. Employment, retail, civic, institutional, and service uses serving both adjacent neighborhoods and wider community markets are recommended for CMU areas. The restaurant-nightclub use is identified as conditional uses in all of the mixed-use zoning districts that commonly used to implement CMU-planned areas.

### Planned Development (PD) Standards

Staff note that restaurant-taverns are listed as conditional uses within the conventional (non-PD) mixed-use zoning districts that correspond with areas planned for “Community Mixed-Use” development in adopted plans. From a Plan Consistency standpoint, amending the PD Zoning text to establish this as a possible use is not believed to be inconsistent with adopted plan recommendation. More details on the related conditional use considerations are discussed below. On-balance, staff believes that amending the allowed use list to include restaurant night-club as a conditional can be found to meet the Planned Development (PD) approval standards.

### 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.

In reviewing this application, staff had further questions on the intended operational details, many of which were not specified in the original submittal. Staff’s first question was the intent of how the live music will be programmed. Staff would anticipate that more ambient and background music that would typically accompany a dining experience would typically result in very few external impacts. Conversely, larger ensembles or louder music not associated with dining could result in additional impacts. In follow-up discussions with the applicant, staff understands that operator intends to have both. Staff believes that the management of the use is key to minimizing potential impacts.

Staff advises that careful consideration be given to the Conditional Use standards. Conditional Use Standard #3 is typically one that is cited when external impacts, such as noise generation, are raised. That condition states that, *“The uses, values and enjoyment of other property in the neighborhood for purposes already established will not be substantially impaired or diminished in any foreseeable manner.”*

In regards to the surrounding context, the approved PD-SIP allows for a variety of office, retail and service uses at 610 Junction Road. A total of 17 residential units are allowed per the PD-SIP, seven of which have been constructed. Additionally, there is a mixed-use building located within 100 feet of the subject tenant space. Off-site, the property to the south includes three residential and mixed-use buildings, located roughly 300 feet south of the subject building and tenant space. Additionally, the “Attic Angels” senior development is located to the west, with the closest building approximately 340 feet away.

Staff anticipates that noise impacts would most directly impact the tenants within the subject building and then the adjoining building on the same site. Staff notes that concerns have been raised (and attached to Legistar) from other building tenants. At the time of report writing, staff have requested additional information from the building owner regarding the sound proofing between tenant spaces. Staff note, however, that the stated focus of the condition is “other property in the neighborhood.” In order to meet this condition and minimize potential impacts, staff have proposed several conditions including conditions related to hours of operation and minimizing external noise.

Staff emphasize that 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 §28.183(9)(d). Staff have recommended operating conditions to limit possible impacts on surrounding properties, similar to what has been approved for other requests.

### **Supplemental Regulations**

A restaurant-nightclub must adhere to the Supplemental Regulations found in §28.151 M.G.O:

- a) 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, as shown on the floor plan consistent with approved capacity.
- b) Must serve food at all hours it is open.
- c) Shall hold 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.

The applicant obtained an Entertainment License from the Common Council on January 3, 2023 ([ID #75140](#)). It is a 21+ Entertainment License, which allows for live music performances. That approval did not specify any additional operational conditions. 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.

### Public Input

At the time of report writing, staff has received comments from a neighboring tenant noting several concerns regarding conflicts with the applicant. This information is available on Legistar.

### Conclusion

There are two primary requests before the Plan Commission. The first is whether a restaurant-night club should be added to the site-specific Planned Development (PD) approved use list as a conditional use. In regards to that aspect of the request, staff notes that all of the conventional mixed-use zoning districts that would implement similar buildings include restaurant-nightclubs as a conditional use. The applicant had previously requested that this use be added as a permitted use. Based on discussions with staff, the request was revised to establish this use as a conditional use, which requires further approval and additional ongoing oversight by the Plan Commission. In regards to conditional use review, staff have proposed several conditions of approval to address possible impacts. As noted in this report, staff have been working with the applicant and owner to try to obtain as much information on the operational details as possible. On-balance, staff believes that a well-managed facility could likely be found to meet the conditional use standards. Staff have recommended several conditions of approval to help align the request if applicable standards. In the event that the Plan Commission, after the public hearing, believes additional information is necessary, it would have the option to refer this item to a future meeting.

## Recommendation

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

The Planning Division recommends the following to the Plan Commission regarding the applications for 610 Junction Road. All recommendations are subject to input at the public hearing and conditions recommended by the reviewing agencies.

- That the Plan Commission find the proposed alteration to amend the zoning text to add restaurant-nightclub as a conditional use in the district consistent with the Specific Implementation Plan approved by the Common Council and the Planned Development standards and **approve** the request; and
- That the Plan Commission find the approval standards for Conditional Uses are met and **approve** the request to allow a restaurant-nightclub at 610 Junction Road.

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

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

1. All exterior doors and any operable windows shall remain closed during musical performances to minimize sound spillover to adjacent properties.
2. Live music or DJ performances shall not occur after 10 p.m. Sunday to Thursday and 12 a.m. Friday to Saturday. If requested, alterations to these hours may be considered as an administrative alteration one year after the Plan Commission approval if both the Planning Division Director and Alderperson both agree the request meets the standards for minor alteration approval listed in MGO 28.183(8). Other alterations to this request must be processed as a major alteration.
3. No outdoor amplified or live music sound shall be permitted outdoors.

**Zoning** (Contact Jenny Kirchgatter, 266-4429)

4. The proposed restaurant-nightclub shall comply with the Zoning Supplemental Regulations Section 28.151 Restaurant-Nightclub.
5. An outdoor eating area will require an alteration to the Planned Development with a site plan review.
6. The capacity of the proposed restaurant-nightclub will not be increasing from the current capacity. Additional bicycle parking will not be required.
7. 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.
8. Signage approvals are not granted by the Plan Commission. Signage must be reviewed for compliance with Chapter 31 Sign Codes of the Madison General Ordinances. Signage permits are issued by the Zoning Section of the Department of Planning and Community and Economic Development.

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

9. Verify with the assigned city building address with City Engineering and post accordingly.

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

10. The plan does not show the patio area to be utilized, added or expanded. The plan shall denote and show the patio area to be used and also any expansion or new patio area to be constructed.
11. The address of the tenant space is 610 Junction Rd Suite 101. The lease address is not valid for the official address. The site plan shall reflect a proper street address of the property as reflected by official City of Madison Assessor's and Engineering Division records.

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The following agencies reviewed the request and recommended no conditions of approval: Engineering, Traffic Engineering, Parks Division, Forestry, Water Utility, Metro Transit