



PREPARED FOR THE PLAN COMMISSION

Project Address: 3116 Commercial Avenue (15th Aldermanic District, Alder Ahrens)
Application Type: Conditional Use
Legistar File ID #: [48337](#)
Prepared By: Chris Wells, Planning Division
Report Includes Comments from other City Agencies, as noted
Reviewed By: Kevin Firchow, AICP, Principal Planner

Summary

Applicant: Jason Socha; Alabaster Holdings, LLC.; 140 Stonehaven Drive; Sun Prairie, WI 53590
Contact: Michael Desbarres; Mob Design, LLC; 624 W. Madison Street; Spring Green, WI 53588
Property Owner: Galt, Ltd.; 4695 Kristy Road; Madison, WI 53718

Requested Action: Approval of a conditional use to establish a nightclub in an existing building.

Proposal Summary: The applicant proposes to establish a nightclub in the southern portion of a nearly 20,000-square-foot, former garage/warehouse building. The applicant’s liquor license, approved in June 2017, establishes the size of the nightclub as 5,800 square feet, the capacity at 325 occupants, and does not include any outdoor seating areas. While the applicant is proposing substantial internal renovations (including adding soundproofing elements), numerous external renovations are also proposed including the repair, resurfacing and restriping of the parking lot; construction of new curbs and sidewalks along the Rethke and Commercial Avenue frontages; and the installation of the required landscaping to bring the site up to current code.

Applicable Regulations & Standards: This proposal is subject to the standards for Conditional Uses (MGO §28.183(6)) and the Supplemental Regulations for Nightclubs (§28.151).

Review Required By: Plan Commission (PC)

Summary Recommendation: The Planning Division recommends that the Plan Commission find that the conditional use standards are met and **approve** the request to establish a nightclub at 3116 Commercial Avenue. This recommendation is subject to input at the public hearing and the conditions recommended by the Planning Division and other reviewing agencies.

Background Information

Parcel Location: The property is located on the northwest corner of the southern intersection of Commercial Avenue and Rethke Avenue, just north of Hwy 30. It is located within Aldermanic District 15 (Ald. Ahrens) as well as within the limits of the Madison Metropolitan School District.

Existing Conditions and Land Use: The 60,100-square-foot (1.38-acre) site has a one-story, 19,260-square-foot warehouse building. The building is surrounded by asphalt which covers the rest of the site. The lot is zoned Traditional Employment (TE).

Surrounding Land Use and Zoning:

North: A massage parlor and a salon, both zoned TE (Traditional Employment District) as well as a hotel which is zoned CC-T (Commercial Corridor – Transitional District). To the northeast is a 60-unit permanent supportive housing complex, also zoned CC-T;

South: Across Commercial Avenue is Hwy 30, beyond which is the Wisconsin Department of Corrections building, zoned SE (Suburban Employment District);

East: Across Rethke Avenue is a one-story shop, a vacant lot, and a parking lot, all zoned TE, beyond which is single-family residential, zoned TR-V1 (Traditional Residential – Varied 1 District); and

West: A two-story commercial warehouse, zoned TE.

Adopted Land Use Plan: The [Comprehensive Plan \(2006\)](#) recommends Employment Uses for the property. While the [Carpenter-Ridgeway-Hawthorne-Truax Neighborhood Plan \(2001\)](#) does not make a specific recommendation for the subject parcel, it does recommend that the neighboring parcels on the block which front onto E. Washington Avenue be assembled to facilitate a large redevelopment project of office uses.

Zoning Summary: This property is in the Traditional Employment (TE) District.

Requirements	Required	Proposed
Lot Area (sq. ft.)	6,000 sq. ft.	60,092 sq. ft.
Lot Width	50'	180'
Front Yard Setback	None	1'
Side Yard Setback	None unless needed for access	23' East 68'5" West
Rear Yard Setback	Lesser of 20% lot depth or 20'	36'6"
Maximum Lot Coverage	85%	Less than 85% (See Comment #24)
Minimum Building Height	22' measured to building cornice	1 story existing building
Maximum Building Height	5 stories/ 68'	1 story existing building
Number Parking Stalls	No minimum	49
Accessible Stalls	Yes	2
Loading	None	None
Number Bike Parking Stalls	Nightclub: 5% of capacity of persons (16)	20 (See Comment #25)
Landscaping and Screening	Yes	Yes (See Comments #26, #27 & #28)
Lighting	Yes	No (See Comment #29)
Building Forms	Not required	Existing building
Other Critical Zoning Items	Barrier Free (ILHR 69), Utility Easements	

Table Prepared by Jenny Kirchgatter, Assistant Zoning Administrator

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

Public Utilities and Services: This property is served by a full range of urban services. Metro Transit provides daily bus service along East Washington Avenue, with stops at the Rethke Avenue intersection. Trips operate at least once every 30 minutes on weekdays, but only pass once an hour each direction on weekends. The last trips westbound - towards the downtown and campus - depart at approximately 11:05 pm on weeknights, and 10:10 pm on weekend evenings. The final departures heading the opposite direction, towards East Towne Mall, depart around midnight during the week, and 11:15 pm on Saturdays and Sundays.

Project History

On June 2, 2017, the Common Council, with a recommendation from the Alcohol and License Review Committee, approved the request for an alcohol license for a nightclub 5,800 square feet in size, without any outdoor seating areas, and with a capacity to 325 occupants. (Legistar ID: [46894](#))

Project Description, Analysis, and Conclusion

The applicant requests approval to establish a nightclub in an existing commercial/warehouse building. The property is zoned Traditional Employment (TE) and nightclubs are a conditional use within this zoning district. The proposal is subject to the approval standards for conditional uses and the supplemental regulations for nightclubs.

The proposed nightclub and taproom would be established within the vacant, roughly 7,900-square-foot southern tenant space located at the southern end of the nearly 20,000-square-foot former garage/warehouse building. The nightclub will consist primarily of two areas: a dance floor/performance space (located on the western side of the building and primarily accessed via an entrance located at the southwest corner of the building), and the interconnected taproom (located on the building's eastern side and primarily accessed via an entrance located along the taproom's southern façade). The applicant has stated that the proposed club will feature a mixture of dance/DJ entertainment, live music, variety and theater acts and lower-key community activities including: art exhibitions, fund-raisers and benefits, classes and workshops, and other miscellaneous events that are of interest to their patrons. Regarding the remaining roughly 12,000 square feet of the subject building, the applicant has stated that their medium-term plan is to offer this space as rental workshop space for Madison's industrial arts community. This might take the form of a maker-space (i.e. a place in which people with shared interests, especially in computing or technology, can gather to work on projects while sharing ideas, equipment, and knowledge).

The applicant's liquor license, approved by the Common Council in June 2017, establishes the size of the nightclub as 5,800 square feet, the capacity at 325 occupants, and does not include any outdoor seating areas. It should be noted that while the total space of the proposed nightclub is roughly 7,900 square feet, the liquor license excludes roughly 2,000 square feet of non-public serving as well as backstage areas in its square-footage calculations.

As stated in the submitted materials, the applicant is proposing to renovate the inside of the building. This will consist of removing partition walls and adding others; repairing the concrete floor; removing the drop ceiling; installing new entrance/exit doors while filling in several existing openings; constructing new bathrooms; adding a taproom and taproom utility areas; constructing a new stage with sound and DJ booths; and adding soundproofing elements. When finished, the business is anticipated to employ up to 20 people including both owners who intend to manage the venue.

Numerous external renovations are also proposed including the repair, resurfacing and restriping of the asphalt parking area (which rings the building) to create 48 off-street parking stalls (including two accessible stalls); construction of new curbs and sidewalks along the Rethke and Commercial Avenue frontages; and the installation of the required landscaping, including landscaped tree islands, to bring the site up to current code. While an outdoor seating area is shown on the submitted plans, it is not part of this request and will require its own conditional use approval. Twenty bicycle parking stalls are proposed on site – 10 located just to the north of the northwest corner of the proposed nightclub space, and 10 located on the eastern side, adjacent to the proposed walkway which will lean from the connect the taproom's emergency exit to the Rethke sidewalk. The applicant will need to work with Zoning Staff to finalize the location of these racks prior to final sign-off.

The applicant is requesting the following hours of operation: Tuesday to Saturday, 7:00 pm to 2:00 am. They are proposing to be closed most Sundays and Mondays (unless rented for special events). (These are the same hours of operation that were included in the applicant's Liquor License Approval). While the location is well-served by Metro Transit via a stop with 30-minute headways during the week and hour headways on the weekends located 450 feet away at the intersection of E. Washington and Rethke Avenues, Metro service will not cover all of the proposed hours of operation as westbound service for this stop ends at 11:05 pm on weeknights (10:10 pm on weekends) and eastbound service ends at midnight on weeknights (11:15 pm on weekends).

While being located in a primarily commercial/light-industrial area, there are residential units in the vicinity, including single-family housing roughly 360 feet to the northeast of the proposed nightclub facility and the recently-completed Rethke Terrace, a 60-unit, permanent supportive housing complex located up the block at 715 Rethke Avenue (roughly 420 feet from the proposed nightclub). The applicant proposes several measures to help mitigate the noise, including:

- Orienting the nightclub away from the residences by locating both the amplified sound area (i.e. the dance floor/performance space) in the southwest corner of the building as well as that space's primary entrance at its southwest corner, the farthest from the residential neighbors and oriented towards Hwy 30;
- Locating the amplified sound area inside the portion of the building constructed of masonry (CMU);
- Utilizing sound-dampening material around/applied to entry/exit doors;
- Employing sound-absorbing ceiling tiles over the designated dance floor; and
- Employing sound-absorbing panels in critical areas and transition/buffer zones.

Regarding parking, while the Traditional Employment (TE) District has no parking minimums for nightclubs if they are not located within 300 feet of another restaurant, restaurant-tavern, tavern, restaurant-nightclub, nightclub, or brewpub (which the proposed site is not), given the fact the Metro transit does not provide service along E. Washington Avenue for the entirety of the hours for which the applicant is proposing to operate, the applicant has decided to voluntarily meet the Zoning Code's minimum off-street parking requirement for *Restaurants/Taverns/Brewpubs* to provide the number of parking stalls equal to 15% of the capacity. As the capacity set by their liquor license is 325 persons, that works out to 39 parking stalls which are all being provided on-site. Additional on-street parking also exists along both sides of Rethke Avenue, in the amount of approximately 40 spaces (total).

Conditional Use Standards

In regards to the approval standards, the Plan Commission shall not approve a Conditional Use without due consideration of the City's adopted plan recommendations, design guidelines, and finding that all of the conditional use standards of MGO §28.183(6) are met. Based on the information provided, the Planning Division believes that the standards for Conditional Uses can be found met.

The Comprehensive Plan recommends Employment Uses and the Carpenter-Ridgeway-Hawthorne-Truax Neighborhood Plan has redevelopment plans showing large office buildings on this block – primarily for the portion of the block fronting onto E. Washington Avenue. While not an employment use, the Planning Division believes the proposal could be found compatible with these recommendations. This is due in part to the fact that, despite the investment embodied in the proposed renovations to both the building and site, it is an interim use of the structure and one that – given the TE zoning of the site as well as the surrounding properties – will not prevent it or the rest of the block from eventually being redeveloped for employment uses envisioned by the plans.

Regarding Conditional Use Standard #3 which states: *"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), the Planning Division believes there are a number of factors that will help mitigate anticipated negative impacts. Regarding noise, Staff believe the proposed sound-dampening elements, the condition of approval which will not allow the facility's doors and windows to be kept open, and the nightclub's main entrance location at the southwest corner of the building (over 500 feet from the single-family residences and over 650 feet from the Rethke Terrace units) and oriented in the opposite direction and next to a busy highway, will significantly help.

In anticipation of the impacts of the proposed use on the surrounding area, the applicant has prepared and submitted their business plan, which contains a section on security and compliance (please see the enclosed copy in your packet of materials). Importantly, it outlines among other things, their internal policies for the number of staff on-site at any given time; how intoxicated/unruly patrons will be handled; and how staff will facilitate patrons to leave safely (for example, from the time a live music event ends until 30 minutes thereafter, one-half of all security personnel shall be stationed outside the premises to assist and encourage patrons to leave safely).

Possible parking impacts can be mitigated by the provision of the 39 on-site parking stalls coupled with the availability of the adjacent on-street stalls. Behavioral and security issues will be mitigated by the policies outlined in the applicant's business plan – which includes security cameras on all outside parking areas as well as protocols for staff monitoring patrons as they leave at the end of the night.

In summation, if well-managed, the Planning Division believes possible adverse impacts could be mitigated. Staff note that that the Plan Commission retains continuing jurisdiction on approved conditional uses, meaning if concerns or complaints regarding the conditional use are filed, the Plan Commission can take further action on this request if it determines that such action is necessary for the project to meet the approval standards (MGO Section 28.183(9)(d)).

Recommendation

Planning Division Recommendation (Contact Chris Wells, (608) 261-9135)

The Planning Division recommends that the Plan Commission find that the conditional use standards are met and **approve** the request to establish a nightclub at 3116 Commercial Avenue. This recommendation is subject to input at the public hearing and the conditions recommended by the Planning Division and other reviewing agencies.

Recommended Conditions of Approval

Major/Non-Standard Conditions are Shaded

Planning Division (Contact Chris Wells, (608) 261-9135)

1. That the nightclub shall operate consistently with the conditions approved as part of the Alcohol and Entertainment licenses including: a) The size of the nightclub shall be 5,800 square feet; and b) capacity shall not exceed 325 persons. Changes to the operating conditions, which are first approved as part of future amendments to the alcohol or entertainment licenses, may be considered as a minor alteration to this conditional use by the Director of Planning, Community, and Economic Development upon recommendation of the District Alderperson.
2. All doors and windows associated with nightclub shall not be kept open.

3. There shall be no amplified sound, including, but not limited to television, ambient music or musical performances, on the exterior of the building.
4. That no outdoor seating areas are approved as part of this request.

City Engineering Division (Contact Brenda Stanley, (608) 261-9127)

5. Based on WDNR records (BRRS #03-13-000304, 03-13-002516), the property may contain residual contaminated soil. If contaminated soil is encountered as part of this redevelopment, all WDNR and DSPS regulations shall be followed for proper handling and disposal.
6. An erosion control permit application & fee shall be submitted to the Engineering Division for review and approval prior to grading or any other construction activities. The Preconstruction Meeting for Public Improvements shall not be scheduled prior to issuance of this permit. The applicant shall demonstrate compliance with Section 37.07 and 37.08 of the Madison General Ordinances regarding permissible soil loss rates. The erosion control plan shall include Universal Soil Loss Equation (USLE) computations for the construction period. Measures shall be implemented in order to maintain a soil loss rate below 5-tons per acre per year.
7. The construction of this project will require that the applicant shall enter into a City / Developer agreement for the required infrastructure improvements. 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. Obtaining a developer's agreement generally takes approximately 4-6 weeks, minimum. (MGO 16.23(9)c)
8. 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.. (MGO 16.23(9)(d)(6))
9. The Applicant shall provide the City Engineer with a survey indicating the grade of the existing street for the design of the sidewalk, curb and adjacent pavement. (POLICY)
10. All work in the public right-of-way shall be performed by a City licensed contractor. (MGO 16.23(9)(c)5) and MGO 23.01)
11. The Applicant shall Construct Sidewalk to a plan approved by the City
12. The Applicant shall make improvements to Rethke Ave & Commercial Ave . The improvements shall consist of Installing curb and gutter, terrace improvements and up to half of the roadway along the frontages as determined by City Engineer. (MGO 16.23(9)(d)(6))

City Engineering Division - Mapping (Contact Jeffrey Quamme, (608) 266-4097)

13. The site plan shall include all existing and proposed utility locations. Most notably there is storm sewer adjacent to the southerly and easterly sides of this property. The storm sewer needs to be accurately located in relation to the true property lines and shown on the plan. This shall be done to determine if the proximity of the storm sewer to the site boundary requires a public storm sewer easement to be drafted and recorded over the southeasterly portion of the property.

Traffic Engineering (Contact Eric Halvorson, (608) 266-6527)

14. To limit interference to the street and an improved pedestrian environment, the entrances on Rethke Avenue shall be reduce in width to a more typical one-way entrance of 10 to 15 feet.
15. The applicant shall submit one contiguous plan showing proposed conditions and one contiguous plan showing existing conditions for approval. The plan drawings 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.
16. 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.
17. 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.
18. All parking facility design shall conform to MGO standards, as set in section 10.08(6).
19. Note: Traditionally Commercial Ave Service Rd has not had parking and with increased development and the addition of street improvements the applicant can expect this condition to return.
20. All entrances shall be modified from 'street' type entrances to 'commercial' entrances.
21. "Stop" signs shall be installed at a height of seven (7) feet at all class III driveway approaches, including existing driveways, behind the property line and noted on the plan. All directional/regulatory signage and pavement markings on the site shall be shown and noted on the plan.
22. One-way operation of the site shall be secured by placing a "One Way" sign at the entrance and a "Do Not Enter" sign at the Exit.
23. 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. Note: Future fenced outdoor patio may be in violation of the vision triangle.

Zoning Administrator (Contact Jenny Kirchgatter, (608) 266-4429)

24. Provide a calculation and plan detail for lot coverage with the final 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.
25. Bicycle parking shall comply with the requirements of Sections 28.141(4)(g) and 28.141(11). Provide a minimum of 16 short-term bicycle parking stalls located in a convenient and visible area on a paved or impervious surface. Bicycle parking shall be located at least as close as the closest non-accessible automobile parking and within one hundred (100) feet of a principal entrance. Show the bicycle parking locations and numbers consistently through the plan set. Note: A bicycle stall is a minimum of two (2) feet by six (6) feet with a five (5) foot wide access area. Provide a detail of the proposed bike rack.
26. 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 ten thousand (10,000) square feet in size must be prepared by a registered landscape architect.
27. Confirm that the proposed landscape island located within the west row of parking contains a minimum of 75% vegetative cover. Per Sections 28.142(3)(c) and 28.142(4)(e), planting beds or planted areas must contain at least 75% vegetative cover mulched. Mulch shall consist of shredded bark, chipped wood or other organic material installed at a minimum depth of two (2) inches.
28. Verify whether new rooftop mechanical equipment will be installed. All rooftop and ground level mechanical equipment and utilities shall be fully screened from view from any street or residential district per Section 28.142(9)(d).
29. Exterior lighting provided shall be in accordance with City of Madison General Ordinances Section 10.085. Provide an exterior lighting plan and fixture cut sheets with the final plan submittal.
30. The proposed nightclub shall conform to the Supplemental Regulations of Section 28.151 for a Nightclub.
31. The area identified as future outdoor patio will require a separate Conditional Use review and approval from Plan Commission.
32. 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.
33. 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 Bill Sullivan, (608) 261-9658)

- | |
|---|
| 34. Provide documentation on the exiting width/capacity. IBC 1028.2 Ensure that the main entrance is capable of accommodating at least 50% of the capacity. |
|---|

35. All sound dampening materials shall comply with Chapter 8 of the IBC.

36. The fire sprinkler system piping shall be designed to allow expansion into the existing garage at a later date.

37. A Place of Assembly License will be required prior to occupancy. Additional information can be found at: <http://www.cityofmadison.com/fire/permits-inspections/licenses-permits/licenses-permits-applications>

Water Utility (Contact Adam Wiederhoeft, (608) 266-9121)

38. The proposed development requires installation of a fire protection/automatic sprinkler system (see also Madison Fire Department review comments); subsequently, a higher capacity water service lateral may be required to meet required flow rates. Verify existing 2-inch diameter water lateral is sufficient to serve the proposed fire protection system.

39. Contact the Water Utility Meter Department at (608) 266-4765 to review proposed water demands/proposed supply fixture units to determine if any new customer account or domestic meter changes will be required.

40. Madison Water Utility will be required to sign off as part of the approval review associated with this Land Use Application/Site Plan Review prior to the issuance of building permits for the proposed development.

Parks / Forestry (Contact Janet Schmidt, (608) 261-9688)

41. Spacing changes street trees are needed for this project. 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 Brad Hofmann – bhofmann@cityofmadison.com or 266-4816. Tree planting specifications can be found in Section 209 of City of Madison Standard Specifications for Public Works Construction.

42. Contractor shall contact City Forestry Brad Hofmann bhofmann@cityofmadison.com or 266-4816 at least one week prior to planting to schedule inspecting the nursery stock and review planting specifications with the landscaper.

Metro Transit (Contact Tim Sobota, (608) 261-4289)

43. Metro Transit provides daily bus service along East Washington Avenue, at stops in the Rethke Avenue intersection. Trips operate at least once every 30 minutes on weekdays, but only pass once an hour each direction on weekends. The last trips westbound - towards the downtown and campus - depart approximately 11:05 pm on weeknights, and 10:10 pm on weekend evenings. The final departures heading the opposite direction, towards East Towne Mall, depart around midnight during the week, and 11:15 pm on Saturdays and Sundays.