



Project Address: 828 E. Main Street (6th Aldermanic District – Ald. Benford)

Application Type: Conditional Use

Legistar File ID #: [65647](#)

Prepared By: Chris Wells, Planning Division
Report includes comments from other City agencies, as noted.

Reviewed By: Kevin Firchow, AICP, Principal Planner

Summary

Applicant & Property Owner: Jessica Wartenweiler & Eric Welch; 1341 Spaight Street, #1; Madison, WI 536703

Requested Action: The applicant requests approval of a conditional use to establish a *nightclub* on property zoned Traditional Employment (TE) District at 828 E. Main Street.

Proposal Summary: The applicant proposes to establish a nightclub in an existing private event venue focused on weddings and similar events (The Tinsmith). The nightclub use is considered incidental, i.e. affiliated with but subordinate to the existing, principal use – a reception hall.

Applicable Regulations & Standards: This proposal is subject to the approval standards for Conditional Uses [MGO §28.183] as MGO §28.082 lists *nightclubs* as a conditional use in the Traditional Employment (TE) Zoning District. MGO §28.130 defines incidental uses and describes how they are included in the various Zoning Code’s use tables. The Supplemental Regulations [MGO §28.151] contain further regulations for this use.

Review Required By: Plan Commission (PC). The Secretary of the Urban Design Commission reviewed this request administratively on behalf of the Urban Design Commission.

Summary Recommendation: The Planning Division recommends that the Plan Commission find that the approval standards for conditional uses are met and **approve** the request to establish a nightclub on a property zoned Traditional Employment (TE) District at 828 E. Main Street. This request is subject to the input at the public hearing and the conditions recommended by the reviewing agencies.

Background Information

Parcel Location: The subject site is a 10,936-square-foot (0.25-acre) parcel located along the northwest side of E. Main Street, between S. Livingston Street and S. Paterson Street. It is also within Aldermanic District 6 (Ald. Benford), Urban Design District #8, and the Madison Municipal School District.

Existing Conditions and Land Use: The site is developed with a one-story, roughly 7,150-square-foot Tratche commercial warehouse building. According to City Assessor records, it was constructed in 1935. The site is zoned TE (Traditional Employment) District.

Surrounding Land Uses and Zoning:

- Northwest:** A two-story office building, zoned TE (Traditional Employment) District;
- Northeast:** A parcel with a one-story office building on the northern half of the site fronting onto E. Washington Avenue, and a parking lot, which serves it, located on the southern half, directly adjacent to the subject parcel. It is zoned TE;
- Southeast:** A warehouse building and storage yard for Madison Gas & Electric, zoned TE; and
- Southwest:** A warehouse building, zoned TE. (Note: The demolition permits to raze both this building as well as the adjacent building to the northwest (which fronts E Washington Avenue) have been approved in order to construct an 8-story, 151-room hotel in their place.)

Adopted Land Use Plan: Both the [Comprehensive Plan](#) (2018) and the [East Washington Capitol Gateway Corridor Plan](#) (2008) recommend Employment (E) uses for the subject site. The [Marquette-Schenk-Atwood Neighborhood Plan](#) (1994) does not provide specific recommendations particular to the subject site.

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

Requirements	Required	Proposed
Lot Area (sq. ft.)	6,000 sq. ft.	10,890 sq. ft.
Lot Width	50'	66.0'
Front Yard Setback	0' or 5'	Existing front yard
Side Yard Setback: Other cases	None unless needed for access	None
Rear Yard Setback	Lesser of 20% lot depth or 20'	Existing rear yard
Maximum Lot Coverage	85%	Existing lot coverage
Minimum Building Height	22' measured to building cornice	One-story existing building
Maximum Building Height	5 stories/ 68'	One-story existing building

Site Design	Required	Proposed
Number Parking Stalls	No minimum required	None
Accessible Stalls	None	None
Loading	Not required	Existing loading area
Number Bike Parking Stalls	Existing reception hall: 5% of capacity of persons (25) Nightclub: 5% of capacity of persons (25)	18 existing stalls
Landscaping and Screening	Not required	Existing landscaping
Lighting	Not required	Existing lighting
Building Forms	Not required	Existing building

Other Critical Zoning Items	Urban Design (UDD #8); Barrier Free (ILHR 69); Wellhead Protection District (WP-24)
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Tables prepared by Jenny Kirchgatter, Assistant Zoning Administrator

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

Public Utilities and Services: The site is served by a full range of urban services. Daily transit service is located roughly 0.1 miles to the northeast at the intersection of E. Washington Avenue and S. Paterson Street.

Related Approvals

On May 5, 2020, the Common Council, based on the recommendation of the Alcohol License Review Committee, approved an 18+ Center for Visual & Performing Arts License (Legistar ID # [59622](#)) (as defined by MGO §38.06(12)(c)) for the Tinsmith, located at 828 E. Main Street. While the Council's approval set the permitted capacity to 500 persons, their approval also stipulated that the establishment must notify the Central Police District in writing at least a week prior to any event over 300 attendees, or is not a wedding or corporate event. This license also limits events to no more than one per week.

On August 12, 2019, the Plan Commission approved a conditional use request (Legistar ID #[56396](#)) for a *reception hall* in the Traditional Employment (TE) District at 828 E. Main Street. As part of this proposal, the applicant proposed to renovate an existing Tratche warehouse building and convert it into a private event venue focused on weddings and similar events.

Project Description

The applicant proposes to establish a nightclub in an existing private event venue focused on weddings and similar events (The Tinsmith). The nightclub use is considered incidental, i.e. affiliated with but subordinate to the existing, principal use - a reception hall.

While the establishment opened in June of 2020, the applicant has indicated that they have been negatively impacted by the restrictions imposed during the COVID pandemic. Wanting to diversify their income streams, they are applying for a nightclub use in order to open to the public - to sell alcohol and non-alcoholic beverages - when private events (weddings, corporate parties, etc.) are not scheduled in their facility. The applicant's submitted materials indicate that while they will remain primarily a wedding venue, they are particularly interested in opening to the public when there are other music or sports events occurring nearby – like for example at Breeze Stevens field or the Sylvee.

In order to be able to open up to the public, they first acquired an entertainment license – specifically, an *18+ Center for Visual & Performing Arts License* which allows those 18 years and older to be able watch live music performances in a setting where alcohol is also being sold. With the entertainment license obtained, they would now be classified as a *nightclub*, per MGO §28.211. In order to be consistent with the Zoning Code, they are seeking conditional use approval as required for nightclubs in the Traditional Employment (TE) District.

Regarding occupancy, whereas the previous *Reception Hall* approval limits the capacity to 620 persons, the Entertainment License's approval caps the open-to-the-public events that could be held no more than once per week to 500 persons. Regarding the hours of operation of these additional events, while they are expected to vary week to week, the applicant anticipates that they will be similar to the reception hall use – typically occurring on weekend afternoons and evenings. As for how patrons are anticipated to use to get to and from the venue, the applicant does not expect any notable changes with the addition of the nightclub use. As there are no automobile parking stalls provided on site, patrons arriving via automobile are expected to continue to use the City's S. Livingston Street Parking Garage, located roughly 250 feet to the west along E. Main Street. Otherwise, patrons are anticipated to use public transit (as the nearest stop is located roughly 0.1 miles away at the intersection of E. Washington Avenue and S. Paterson Street.) and bicycle. Note: a bicycle stall parking reduction was previously approved for the reception hall use. Given the reduced capacity permitted for the nightclub events, the 18 existing stalls are expected to still be sufficient.

Analysis & Conclusion

The proposed project is subject to the approval standards for Conditional Uses [MGO §28.183(6)] as well as the Supplemental Regulations for nightclubs [MGO §28.151]. This analysis begins with an analysis of adopted plan recommendations.

Conformance with Adopted Plans

Both the [Comprehensive Plan](#) (2018) and the [East Washington Capitol Gateway Corridor Plan](#) (2008) recommend Employment (E) uses for the subject site. The Comprehensive Plan states that Employment uses “*include predominantly corporate and business offices, research facilities, laboratories, hospitals, medical clinics, and other similar uses. They generally do not include retail and consumer service uses for the wider community, but may include limited retail and service establishments that primarily serve employees and users of the area.*” This description is virtually identical to that provided by the [East Washington Capitol Gateway Corridor Plan](#) for Employment uses. The [Marquette-Schenk-Atwood Neighborhood Plan](#) (1994) does not provide specific recommendations pertaining to the subject site.

In regards to plan consistency, as with the 2019 *reception hall* proposal, Staff again note that the proposed use could be found to be compatible with adopted plans. Given the fact that the proposed nightclub use is incidental to the establishment’s existing *reception hall* use, Staff does not believe this request represents a substantive change. Furthermore, Staff believe, with the addition of the 18+ Center for Visual & Performing Arts License and this nightclub use request, that the venue will be even more oriented to the users of the area than before (and therefore more consistent with the Comprehensive Plan).

Conditional Use Standards

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

Given due consideration, the Planning Division anticipates that if well-managed, the addition of the proposed nightclub use should not result in significant negative impacts to the surrounding properties. Factors such as the various conditions associated with their approved entertainment license, including a capacity limit of 500 persons and a limit of one (1) 18+ live entertainment event that can be held each week; the fact that nightclub events are anticipated to also occur during weekend afternoons and evenings; the location away from nearby residential uses; the nearby transit service; and nearby parking garage, are anticipated to help mitigate possible negative impacts. Finally, if approved, the Plan Commission retains continuing jurisdiction over this conditional use, meaning that should complaints be filed, the Plan Commission could take further action on this conditional use as allowed in MGO Section 28.183(9)(d).

Supplemental Regulations for Nightclubs

Lastly, according to Table 28F-2 in MGO §28.082, *nightclubs* must adhere to the following Supplemental Regulations found in MGO §28.151:

- (a) Capacity may be as high as five (5) square feet per person.
- (b) Shall hold entertainment license under Sec. 38.06(11), MGO.
- (c) Shall at all times operate consistent with and according to the requirements of a valid liquor alcohol license issued by the City.

The capacity limit of 500, which came with their Entertainment License’s approval is less than half of what would be allowed by (a), above. Therefore, Staff believes the Supplemental Regulations can be found met.

Public Input

At the time of report writing, staff have received one public comment – a letter of unanimous support from the Marquette Neighborhood Association. The letter has been attached to the public record for this request (Legistar File ID# [65647](#)).

Conclusion

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

Recommendation

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

The Planning Division recommends that the Plan Commission find that the approval standards for conditional uses are met and **approve** the request to establish a nightclub on a property zoned Traditional Employment (TE) District at 828 E. Main Street. This request is subject to the input at the public hearing and the following conditions:

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

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

1. A bicycle parking reduction was previously approved for the reception hall. The required number of bicycle parking stalls for the reception hall and for a nightclub is 5% of capacity of persons (25 stalls). 18 bicycle parking stalls are provided for an approved bicycle parking reduction of 7 stalls. Verify whether the current approved capacity will be maintained for the nightclub use.

Fire Department (Contact Bill Sullivan, (608) 261-9658)

2. Obtain a Special Occupancy License for an Assembly Occupancy through the Madison Fire Department. Application:
<https://www.cityofmadison.com/fire/documents/Special%20Occupancy%20License%20Application.pdf>
3. Update occupant loads and/or set up arrangements as applicable.

The following agencies have reviewed this request and has recommended no conditions or approval:

Engineering Main Office; Engineering-Mapping; Traffic Engineering; Parks Division; Forestry; Water Utility; Metro