

PLANNING DIVISION STAFF REPORT

May 20, 2024



PREPARED FOR THE PLAN COMMISSION

Project Address: 2927 East Washington Avenue (District 15, Alder Martinez-Rutherford)

Legistar File ID #: [82947](#)

Prepared By: Lisa McNabola, AICP, Planning Division
Report Includes Comments from other City Agencies, as noted

Reviewed By: Kevin Firchow, AICP, Principal Planner

Summary

Applicant & Contact: Jennie Capellaro; Minocqua Brewing Company; 2927 East Washington Avenue, Madison, WI 53714

Owner: Mark O'Connell; M&N Properties, LLC; 2607 Bass Road, Cottage Grove, WI 53527

Requested Action: Consideration of a conditional use in the Commercial Corridor-Transitional (CC-T) District to allow free-standing vending (food carts) at 2927 East Washington Avenue within 200 feet or less from a property line of a lot with a residential use.

Proposal Summary: The applicant operates a tap room in a multi-tenant commercial building and proposes to have food carts in the parking lot.

Applicable Regulations & Standards: Standards for conditional uses are found in MGO Section 28.183(6). Supplemental Regulations for free-standing vending are found in MGO Section 28.151. The subject site is located in Urban Design District 5, per 33.24(4)(g) the Urban Design Secretary administratively approve certain proposed building additions, minor façade alterations, or minor construction within Urban Design Districts if found to be in compliance with the applicable criteria and requirements of the District in question.

Review Required By: Plan Commission

Summary Recommendation: The Planning Division recommends that the Plan Commission find the approval standards for conditional uses are met and **approve** the request to allow free-standing vending (food carts) at 2927 East Washington Avenue within 200 feet of a residential use. All recommendations are subject to input at the public hearing and the conditions recommended by the reviewing agencies.

Background Information

Parcel Location: The 25,203 square-foot (0.57-acre) parcel is located at the southwest corner of East Washington Avenue and Oak Street. It is located within District 15 (Alder Martinez-Rutherford) and the Madison Metropolitan School District.

Existing Conditions and Land Use: The subject parcel is occupied by an 11,838 square foot, one-story, multi-tenant commercial building built in 1964 with additions constructed in 1970, 1972, and 1977. The site is zoned Commercial Corridor-Transitional (CC-T) District.

Surrounding Land Use and Zoning:

North: Across East Washington Avenue, commercial and mixed-used buildings, zoned Commercial Corridor-Transitional (CC-T) District;

East: Across Oak Street, commercial buildings, zoned (CC-T) District; single family residential, zoned Traditional Residential-Consistent 4 (TR-C4) District;

South: Single family residential, zoned TR-C4 District; and

West: Madison East Shopping Center, zoned CC-T District.

Adopted Land Use Plan: The [Comprehensive Plan](#) (2023) recommends Community Mixed-Use (CMU) development for the subject property and adjacent properties along East Washington Avenue. Properties to the south are recommended for Low Residential (LR) development. The [Darbo Worthington Starkweather Neighborhood Plan](#) (2017) recommends Community Mixed-Use (CMU) development for the subject site. Properties to the south are recommended for Low Residential (LR) development.

Zoning Summary: The property is zoned Commercial Corridor-Transitional (CC-T) District.

Requirements	Required	Proposed
Front Yard Setback	0' or 5'	Existing front setback
Max. Front Yard Setback: TOD	20'	Existing front setback
Side Yard Setback: Street side yard	0' or 5'	Existing east side yard setback
Side Yard Setback: Other cases	None unless needed for access	Existing west side yard setback
Rear Yard Setback	The lesser of 20% of lot depth or 20'	12' existing rear setback
Maximum Lot Coverage	85%	89.6%
Minimum Building Height: TOD	2 stories	1 story existing building
Maximum Building Height	5 stories/ 78'	1 story existing building

Site Design	Required	Proposed
Number Parking Stalls	No minimum required: TOD	24 existing parking stalls 2 garage stalls
Electric Vehicle Stalls	Not required	None
Accessible Stalls	Yes	1
Loading	Not required	None
Number Bike Parking Stalls	Tasting room: 5% of capacity of persons (2)	2
Landscaping and Screening	Not required	None
Lighting	Not required	None
Building Form and Design	Not required	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 applicant operates a tap room in a portion of a multi-tenant commercial building at 2927 East Washington Avenue. The applicant proposes to have food carts 200 feet or less from the property line of a lot with a residential use, which is a conditional use in the Commercial Corridor-Transitional (CC-T) District.

The building is located at the rear of the lot and the parking lot fronts East Washington Avenue and Oak Street. The parking lot can be accessed from East Washington Avenue and Oak Street. The commercial building has three tenants, including a liquor store, tap room, and pay day loan business. The tap room occupies the middle unit.

The parking lot has 24 parking stalls, and the applicant proposes to use 4 stalls for food carts. The 4 stalls are located at the western edge of the parking lot. No outdoor seating is being proposed in the parking lot. The applicant has indicated that they may change the location of the food carts. Per the recommended conditions of approval, any change in the location of the food carts would require approval of a conditional use alteration as allowed in the Zoning Code.

In the letter of intent, the applicant provides anticipated operating hours, though indicates they wish to keep some flexibility. The applicant anticipates that carts could operate up to 4 times per week during peak business hours. The tap room is open from 2 p.m. to 8 p.m. Monday and Tuesday, 2 p.m. to 9:30 p.m. Wednesday to Saturday, and 12 p.m. to 6 p.m. Sunday.

As a reference, the applicant has also applied for approval of minor alteration to the previously approved tap room conditional use to allow for an outdoor eating area behind the building. That request is not before the Plan Commission. As proposed, that outdoor eating area is scheduled to close by 9 pm and would not have outdoor amplified sound. As the proposal would be operated in accordance with the permitted use standards, a separate conditional use to establish the outdoor eating area was not required.

Supplemental Regulations

Per MGO Section 28.151, free standing vending is subject to the following Supplemental Regulations:

- a) In all districts, free-standing vending is prohibited if located on zoning lots that contain residential uses.
- b) In residential districts, including the DR1 and DR2 districts, free-standing vending requires conditional use approval.
- c) In non-residential districts, free-standing vending is a permitted use if it located more than two hundred (200) feet from the property line of a lot with a residential use and is a conditional use if located two hundred (200) feet or less from the property line of a lot with a residential use.
- d) Hours of operations shall be between the hours of 7:30 a.m. and 11:30 p.m., including set up and take down. No part of the operator's free-standing vending equipment or operation may remain on the property outside the hours of operation.
- e) No free-standing vending operation may be located within twenty-five (25) feet of a restaurant or restaurant-tavern, unless the food and beverage business is located on the same property as the proposed vending and the business has approved the vending.
- f) Operators of free-standing vending operations shall provide the Zoning Administrator with a letter of permission from the owner of the property giving permission to conduct free-standing vending operations on the property.
- g) Operators of free-standing vending operations must obtain an approved site plan from the City showing the location of the vending operation on the property in relation to existing surface parking lots, streets, driveways, and public rights of way.
- h) Operators of free-standing vending operations shall obtain and maintain all applicable food and/or beverage licenses for their operation as determined to be required by Public Health-Madison and Dane County.

- i) Any person vending pursuant to this ordinance either as an operator or employee of the operator shall maintain license(s) as required by Sec. 9.13(1) and (3)(j), MGO. When vending on private property pursuant to this ordinance, operators of free-standing vending operations shall follow the requirements in Sec. 9.13(4)(a), (b), (j), (p), (s), and (v).

Conformance with Adopted Plan

The [Comprehensive Plan](#) (2023) recommends Community Mixed-Use (CMU) development for the subject property and adjacent properties along East Washington Avenue. Properties to the south are recommended for Low Residential (LR) development. The [Darbo Worthington Starkweather Neighborhood Plan](#) (2017) recommends Community Mixed-Use (CMU) development for the subject site. Properties to the south are recommended for Low Residential (LR) development.

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.

The [Comprehensive Plan](#) (2023) and [Darbo Worthington Starkweather Neighborhood Plan](#) (2017) recommend Community Mixed-Use (CMU) development. CMU areas include existing and planned areas supporting an intensive mix of residential, commercial, and civic uses serving residents and visitors from the surrounding area and the community as a whole. Employment, retail, civic, institutional, and service uses serving both adjacent neighborhoods and wider community markets are recommended for CMU areas. Staff believe the proposed food cart use is generally consistent with the recommended land uses subject to meeting the supplemental regulations and recommended conditions of approval.

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 believe the conditional use approval standards can be found met, subject to the recommended conditions of approval.

Recommendation

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

The Planning Division recommends that the Plan Commission find the approval standards for conditional uses are met and **approve** the request to allow free-standing vending (food carts) at 2927 East Washington Avenue within 200 feet of a residential use. All recommendations are subject to input at the public hearing and the conditions recommended by the reviewing agencies.

Recommended Conditions of Approval

Major/Non-Standard Conditions are Shaded

Zoning (Contact Jenny Kirchgatter, 266-4429)

1. Free-standing vending shall comply with supplemental regulations Section 28.151 Free-Standing Vending.
2. Modifications to the location of the food carts and/or the reconfiguration of parking stalls have the option to be considered as a minor alteration, subject to the conditional use alteration requirements of 28.183 (8)

Traffic Engineering (Contact Sean Malloy, 266-5987)

3. The applicant shall work with Traffic Engineering on providing an area for pedestrians to queue to be approved prior to sign off.

Metro Transit (Contact Timothy Sobota, 261-4289)

4. Metro Transit operates daily all-day transit service along East Washington Avenue adjacent this property - with trips at least every 30 minutes (every 15 minutes or less during the day on weekdays and Saturdays). Additional service operates along North Street near this property - with trips at least every 30 minutes (every 15 minutes or less during the day on weekdays and Saturdays).
5. Metro Transit would initially estimate the following counts of potentially eligible trips towards US Green Building Council/LEED Quality Access to Transit points: 131 Weekday & 97 Weekend (average). Please contact Metro Transit if additional analysis would be of interest.

The following agencies reviewed the request and recommended no conditions of approval: Engineering Mapping, Fire Department, Parks Division, Assessor's Office, Forestry, Water Utility, Engineering Division, Parking Utility.