



PREPARED FOR THE PLAN COMMISSION

**Project Address:** 222 W Gorham Street (2<sup>nd</sup> Alder District, Ald. Heck)

**Application Type:** Conditional Use

**Legistar File ID #** [71637](#)

**Prepared By:** Chris Wells and Tim Parks, Planning Division  
Report Includes Comments from other City Agencies, as noted

**Reviewed By:** Kevin Firchow, AICP, Principal Planner

## Summary

**Applicant:** Drew Deuster; Wild Planet Hospitality Group / Red Rock Saloon; 1227 N Water Street; Milwaukee, WI 53203

**Contact:** Mike Booth; OPN Architects; 301 N Broom Street; Madison, WI 53703

**Property Owner:** Urban Land Interests; 10 E Doty Street, #300; Madison, WI 53703

**Requested Action:** Consideration of a conditional use in the Downtown Core (DC) District for the hours of an outdoor eating area to extend past 9:00 p.m. to allow the addition of a second floor outdoor eating area for a restaurant-nightclub at 222 W Gorham Street.

**Proposal Summary:** The applicant proposes to add an outdoor eating area to the second floor of the existing restaurant-nightclub (Red Rock Saloon). To help mitigate noise, the two overhead doors which access the outdoor area will be closed by 11:00 p.m. and the terrace itself vacated nightly by 1:30 a.m. No amplified or live music on the patio is proposed. The proposed capacity is 90 persons.

**Applicable Regulations & Standards:** This proposal is subject to the standards for Conditional Uses [MGO §28.183(6)(a)] as Table 28E-2 in MGO §28.072 lists an *outdoor eating area associated with a food or beverage establishment* as a conditional use in the Downtown Core (DC) District. The Supplemental Regulations [MGO §28.151] contain further regulations for this use, most notably the regulation "*Hours of operation shall end at 9:00 p.m. in all districts except for MXC, CC and RMX, unless extended as part of the conditional use approval.*"

**Review Required By:** Plan Commission

**Summary Recommendation:** The Planning Division recommends that the Plan Commission find that the approval standards for conditional uses are met and **approve** the extended hours of the outdoor eating area to allow the addition of a second floor outdoor eating area for a restaurant-nightclub in the Downtown Core (DC) District at 222 W Gorham 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 approximately 8,712-square-foot (0.2-acre) parcel is located to the northwest of the intersection of W Gorham and State Streets. It is also located within Alder District 2 (Ald. Heck) as well as the limits of the Madison Metropolitan School District.

**Existing Conditions and Land Use:** The parcel contains a roughly 11,600-square-foot, 2-story structure (with 1,130-square-foot mezzanine) which, according to City Assessor’s Office records, was built in 1984 and remodeled in 2015. It is zoned Downtown Core (DC) District.

**Surrounding Land Use and Zoning:**

- Northwest:** The 2-story and 2-unit Rohr Chabad House, zoned Urban Mixed-Use (UMX) District;
- Northeast:** The City’s 57-stall Buckeye Parking Lot, zoned UMX;
- Southeast:** Across W Gorham Street is a mixed-use building with ground floor retail, and five units on the second and (partial) third floors (346 State Street), zoned Downtown Core (DC) District; and
- Southwest:** A liquor store with storage upstairs (402 State Street); a mixed-use building with ground floor retail and a 3-bedroom unit above (404 State Street); a mixed-use building with ground floor retail, second floor office and third floor storage space (414 State Street); and a 2-story, mixed-use building with ground floor retail (418 State Street). All are zoned DC.

**Adopted Land Use Plan:** The 2018 [Comprehensive Plan](#) recommends Downtown Mixed-Use (DMU) development for the subject site. The Plan notes that this includes “intensive mixed-use development” which is “generally more focused on residential, retail, and service uses than Downtown Core (DC) areas, but may also include some government and employment uses.” For details on heights, mix of uses, ground floor uses, pedestrian friendly design, and other considerations which the Plan notes “must be addressed for development within this category”, the Plan defers to the [Downtown Plan](#).

The 2012 [Downtown Plan](#) includes the subject site’s entire block in the “State Street” District which it seeks to “maintain and enhance” as Madison’s “premier shopping, dining, entertainment and cultural destination, with a unique sense of place characterized by a vibrant, diverse and dynamic mix of uses, a distinctive pedestrian oriented streetscape, and human-scale developments that actively engage the street and promote synergy and interaction.” (Objective 4.2, Page 44)

**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, including seven-day Metro Transit service on State and W Gorham Streets.

**Zoning Summary:** The property is zoned Downtown Core (DC) District

Requirements	Required	Proposed
Front Yard Setback	0’ or 5’	0’
Side Yard Setback	0’	0’
Rear Yard Setback	0’	0’
Minimum Building Height	2 stories	2 story existing building
Maximum Building Height	4 story height limit extends 30’ back from State St right-of-way line 6 stories	2 story existing building
Stepback: Downtown Stepback Map	30’ stepback above 4 stories	None

Site Design	Required	Proposed
Number Parking Stalls	Not required: Central Area	None

Accessible Stalls	Not required	None
Loading	Not required	None
Number Bike Parking Stalls	Restaurant-nightclub: 5% of capacity of persons	None
Landscaping and Screening	Not required	None
Lighting	Not required	Yes
Building Forms	Not required	Existing building
<b>Other Critical Zoning Items</b>	Urban Design (Downtown Core District); Barrier Free (ILHR 69)	

*Tables Prepared by Jenny Kirchgatter, Assistant Zoning Administrator*

## Related Approvals

On November 22, 2021, the Plan Commission approved a conditional use request in the Downtown Core (DC) District to allow a restaurant-nightclub (Red Rock Saloon) in an existing commercial building at 222 W Gorham Street. (Legistar File [67800](#))

On August 3, 2021, the Common Council, based on the recommendation of the Alcohol License Review Committee (ALRC), approved an 18+ Center for Visual & Performing Arts License (Legistar ID # [66377](#)) (as defined by MGO §38.06(12)(c)) for Chinchilla JDK LLC, doing business as Red Rock Saloon, located at 222 W Gorham Street. The Council’s approval set the permitted capacity to 400 persons and included the following conditions:

1. Establishment must meet the definition of an entertainment venue as defined by MGO Sec 38.05(9).
2. Establishment must provide full food service at all times when live musical performances are not offered.
3. No patrons are permitted to enter or re-enter the establishment after 1:30am on Friday or Saturday night.

## Project Description

The applicant, Red Rock Saloon, proposes to add a roughly 1,340 outdoor eating area on the second floor of the restaurant-tavern at 222 W Gorham Street. Submitted materials state that two overhead doors and two pedestrian doors will be added along the floor’s existing western exterior wall to provide access to the existing unoccupied roof. The outdoor eating area will have an occupancy of 90 persons (this will be added to the interior capacity). The majority of the outdoor seating will be in the form of tables with four to six chairs, however there will be lounge seating with fire pits located along the northwest edge of the terrace. (Note: The Fire Department is recommending that the fire pits in this setting and application not be approved (see the recommended conditions in the final section). The outdoor area will be enclosed along the southeastern and northeastern sides by steel planters with a low railing, and by a gabion (rock) wall with attached shade structure along the northwestern.

Regarding hours of operation, the applicant states that while the Red Rock Saloon is open until 2:00 a.m., Tuesday to Thursday, and until 2:30 a.m. on Friday and Saturday. To help mitigate noise, they will close the two overhead doors by 11:00 p.m. and have the terrace itself vacated nightly by 1:30 a.m. They have also stated that there will be no amplified or live music on the patio.

## Analysis and Conclusion

This proposal is subject to the standards for Conditional Uses [MGO §28.183(6)(a)] as Table 28E-2 in MGO §28.072 lists an *outdoor eating area associated with a food or beverage establishment* as a conditional use in the Downtown

Core (DC) District. The Supplemental Regulations [MGO §28.151] contain further regulations for this use, most notably the regulation *“Hours of operation shall end at 9:00 p.m. in all districts except for MXC, CC and RMX, unless extended as part of the conditional use approval.”*

### **Conformance with Adopted Plans**

The 2018 [Comprehensive Plan](#) recommends Downtown Mixed-Use (DMU) development for the subject site. The Plan notes that this includes *“intensive mixed-use development”* which is *“generally more focused on residential, retail, and service uses than Downtown Core (DC) areas, but may also include some government and employment uses.”* For details on heights, mix of uses, ground floor uses, pedestrian friendly design, and other considerations which the Plan notes *“must be addressed for development within this category”*, the Plan defers to the [Downtown Plan](#).

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In regards to plan consistency, Staff believe that the proposed use could be found to be compatible with adopted plans.

### **Supplemental Regulations**

Per Table 28E-2 in MGO §28.072, an *outdoor eating area associated with a food or beverage establishment* shall adhere to the Supplemental Regulations found in MGO §28.151:

- a) Primary access to the area shall be from within the establishment.
- b) Hours of operation shall end at 9:00 p.m. in all districts except for MXC, CC and RMX, unless extended as part of the conditional use approval.
- c) No amplified sound is permitted in all districts except MXC, CC and RMX, unless allowed as part of the conditional use approval.
- d) Where the use is conditional, an appropriate transition area between the use and adjacent property may be required, using landscaping, screening, and other site improvements consistent with the character of the neighborhood.

The Planning Division believes that the proposed outdoor eating area will meet all of the Supplemental Regulations subject to the comments and conditions from reviewing agencies.

### **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.

Staff believes that the Plan Commission may find that the conditional use standards are met. Given due consideration, the Planning Division anticipates that, if well-managed, the proposed outdoor eating area should

not result in significant negative impacts to the uses, values, and enjoyment or normal and orderly development of surrounding properties, which include residential uses within a short distance of the subject site. At the time of report writing, staff is unaware of any concerns about this request.

As with any conditional use, the Plan Commission retains continuing jurisdiction as allowed in MGO §28.183(9)(d) in the event that complaints are received about the outdoor eating area, which could result in more restrictive conditions being applied if deemed necessary following a public hearing.

### Urban Design Commission

The subject site is located in the DC zoning district. Per MGO§28.074(4), all new buildings and additions in the DC district that are less than 20,000 square feet and are not approved administratively, as well as all major exterior alterations to any building shall be approved by the Urban Design Commission based on the design standards in §28.071(3), if applicable, and the Downtown Urban Design Guidelines. The Urban Design Commission reviewed the plans for the proposed rooftop outdoor eating area on June 29, 2002 and granted **final approval** of the project. A draft report from that meeting is attached to the legislative file for this conditional use request for reference.

### Conclusion

In closing, staff believes that the Plan Commission may find that the proposed outdoor eating area for a restaurant-nightclub meets the conditional use approval standards and supplemental regulations and recommends that it be subject to input at the public hearing and comments from reviewing agencies.

## Recommendation

### Planning Division Recommendation (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 extended hours of the outdoor eating area to allow the addition of a second floor outdoor eating area for a restaurant-nightclub in the Downtown Core (DC) District at 222 W Gorham Street. This request is subject to the input at the public hearing and the conditions recommended by the reviewing agencies.

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

### Planning Division

1. That the hours of operation for the outdoor eating area shall be until 1:30 a.m. nightly as stated in the letter of intent. No service shall occur in the outdoor area after 1:30 a.m., and patrons may not utilize the outdoor patio area after those hours for smoking or otherwise. In the future, the Director of the Planning Division may consider a minor alteration to the conditional use to further modify the hours of operation for the outdoor eating area following a recommendation by the district alder.
2. Amplified sound is prohibited in the outdoor eating area unless approved by the Plan Commission as a conditional use.

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

3. The outdoor eating area shall comply with the Supplemental Regulations Section 28.151 of the Zoning Code for Outdoor Eating Areas Associated With Food and Beverage Establishments. The capacity shall be

established for the outdoor eating area. Occupancy is established by the Building Inspection Unit. Contact Building Inspection staff at (608) 266-4551 to help facilitate this process.

4. Submit floorplans for review to establish the capacity of the restaurant-nightclub consist with the Zoning Code Supplemental Regulations Section 28.151 Restaurant-Nightclub. Maximum capacity of the restaurant-nightclub shall 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.
5. 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.

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

6. The Madison Fire Department does not support the use of open flame in assembly occupancies nor the proposed location beneath the structure.

7. In addition to posting the total capacity of the building, the maximum capacity of each floor level shall be posted and maintained.

**The following agencies reviewed the request and recommended no conditions or approval:**

Engineering Division (Main Office), Engineering Division (Mapping), Traffic Engineering Division, Metro Transit, Parks Division, Forestry Section, and the Madison Water Utility.