

PLANNING DIVISION STAFF REPORT

July 8, 2024



PREPARED FOR THE PLAN COMMISSION

Project Address: 823 East Washington Avenue (8th Floor) (District 6 – Alder Rummel)
Application Type: Conditional Use
Legistar File ID # [83741](#)
Prepared By: Colin Punt, Planning Division
Report Includes Comments from other City Agencies, as noted
Reviewed By: Kevin Firchow, AICP, Principal Planner

Summary

Applicant: MM East Washington LLC; NCG Hospitality; 1600 Aspen Commons #200; Middleton, WI 53562

Contact: Blake Richter; NCG Hospitality; 1600 Aspen Commons #200; Middleton, WI 53562

Requested Action: The applicant requests approval of a conditional uses in the Traditional Employment (TE) District for a restaurant-nightclub per §28.082(1) MGO.

Proposal Summary: The applicant proposes to establish a restaurant-nightclub on the eighth floor of an eight-story, 151-room hotel at 823 East Washington Avenue.

Applicable Regulations & Standards: This proposal is subject to the standards for Conditional Uses [§28.183(6) M.G.O] and Supplemental Regulations [§28.151 M.G.O.].

Review Required By: Plan Commission

Summary Recommendation: The Planning Division recommends that the Plan Commission finds that the standards for conditional uses are met and **approve** the request to establish a restaurant-nightclub on the eight floor of an eight-story hotel at 823 East Washington Avenue. This recommendation is subject to input at the public hearing and the conditions recommended by the reviewing agencies in this report beginning on page 4.

Background Information

Parcel Location: The subject parcel is 21,865 sf (0.5 acres) and is located on the southeast side of East Washington Avenue, between South Livingston Street and South Paterson Street. The site is in Aldermanic District 6 (Alder Rummel) and is within the Madison Metropolitan School District.

Existing Conditions and Land Use: The subject site zoned TE (Traditional Employment district). 823 East Washington Avenue is developed with an eight-story, 77,500-square foot, 151-room hotel built in 2023.

Surrounding Land Use and Zoning:

Northeast: A two-story restaurant building and a one-story wedding venue in former industrial warehouse buildings, both zoned TE (Traditional Employment district);

Southeast: Across East Main Street, an MG&E building and storage yard, zoned TE;

Southwest: The 9-story “Spark” office building, zoned TE; and

Northwest: Across East Washington Avenue, the 11-story “Galaxie” mixed-use building, zoned TE.

Adopted Land Use Plan: The [Comprehensive Plan](#) (2023) recommends Regional Mixed Use for the subject site. The [East Washington Avenue Capitol Gateway Corridor Plan](#) (2008) also recommends an Employment use for the site. The [Marquette-Schenk-Atwood Neighborhood Plan](#) (1994) does not include specific recommendations for this site.

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

Requirements	Required	Proposed
Lot Area (sq. ft.)	6,000 sq. ft.	21,865 sq. ft.
Lot Width	50'	66.18'
Front Yard Setback	0' or 5'	Adequate
Max. Front Yard Setback: TOD	20'	Adequate
Side Yard Setback: Other cases	None unless needed for access	3.3' northeast side yard
Rear Yard Setback: Through Lot	0' or 5'	Adequate
Maximum Lot Coverage	85%	84.8%
Minimum Building Height: TOD	2 stories/ 22' measured to building cornice	8 stories existing building
Maximum Building Height	5 stories/68'	8 stories existing building

Site Design	Required	Proposed
Number Parking Stalls	Not required: TOD	4
Electric Vehicle Stalls	Not required	None
Accessible Stalls	Yes	1
Loading	2 (10' x 50')	2 (10' x 50) loading zones
Number Bike Parking Stalls	Hotel: 1 per 10 bedrooms (15) Nightclub: 5% of capacity of persons	28
Landscaping and Screening	Not required	Existing landscaping
Lighting	Not required	Existing lighting
Building Form and Design	Not required	Existing building

Other Critical Zoning Items	Urban Design (UDD 8), Barrier Free (ILHR 69), Wellhead Protection (WP-24), TOD Overlay
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Tables Prepared by Jenny Kirchgatter, Assistant Zoning Administrator

Environmental Corridor Status: The property is not located in 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, NCG Hospitality, owners of Moxy by Marriott, an eight-story hotel with 151 guest rooms located at 823 East Washington Avenue, representing operator Tacos & Tequila, LLC, is requesting conditional use approval for a restaurant-nightclub to operate in the existing restaurant space on the eight floor of the hotel building. The applicant intends to offer live music or entertainment, such as a DJ or amplified live music in the space. According to the letter of intent, the location of entertainment will be limited to the eighth floor restaurant space. Entertainment offerings will only be offered on select dates. General hours of operation for the restaurant are proposed to be 4 p.m. to 11 p.m. Sunday through Thursday and 4 p.m. to 12 a.m. Friday and Saturday. The

applicant proposes a capacity of 156 persons. Security in addition to that required for the restaurant and its entertainment operations will be added as necessary.

Note that while this conditional use request is for the hotel's eighth-floor restaurant space, a nightclub conditional use request is also being considered for the hotel owner-operator's use in the first-floor lobby space (Legislative ID [83739](#)).

Analysis

The applicant requests approval of a conditional use for a nightclub within a hotel in a TE district and Urban Design District 8. This section begins with a review of adopted plans; an analysis of the conditional use standards; and ends with a summary of the Urban Design Commission's review. The accompanying necessary 21+ Entertainment License was granted by Common Council at its June 4, 2024 meeting (see Legislative Item [83314](#) for more information).

Conformance with Adopted Plans

The [Comprehensive Plan](#) (2023) recommends Regional Mixed Use (RMU) for the subject site. The RMU category includes high-intensity centers supporting a variety of multifamily housing options and commercial activity serving the needs of the region. The areas typically include large-scale sites supportive of multistory buildings. The [East Washington Avenue Capitol Gateway Corridor Plan](#) (2008) also recommends an Employment use for the site, with a maximum facade height of five stories and maximum heights of twelve stories for the East Washington Avenue half of the site and eight stories on the East Main Street half. The plan also recommends scaling buildings on the Main Street frontage at a scale appropriate for that streetscape. The [Marquette-Schenk-Atwood Neighborhood Plan](#) (1994) does not include specific recommendations for this site.

Conditional Use Approval Standards

This proposal is also subject to the standards for Conditional Uses as restaurant-nightclubs are a conditional use in the TE Zoning district. 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 §28.183(6) M.G.O. are met. Staff advises the Plan Commission that in evaluating the conditional use standards, 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 a restaurant-nightclub, like the hotel in which it is housed is generally a complementary use in employment-recommended areas. Restaurant-Nightclubs may be accompanied by possible noise impacts, which are sometimes called out in reference to conditional use approval standard 1, related to the detriment or endangerment of public health, safety, and welfare, and standard 3, regarding impairment or diminishment of uses, values, and enjoyment of other property in the neighborhood. In this case, because of the restaurant-nightclub's orientation to the hotel guests, the location along East Washington Avenue, the intensity of surrounding development, and the urban characteristic of the surrounding environment, Staff believes that all applicable standards of approval can be found met.

Staff believes the Plan Commission can find all other applicable conditional use approval standards to be met.

Urban Design Commission

The development site is within Urban Design District 8 (UDD 8) Block 12a & 12b, which requires that the Urban Design Commission (UDC) review the proposed project using the design requirements and guidelines found in §33.24(15) MGO. However, as no exterior changes are proposed, UDC review is not required.

Public Input

At time of report writing Staff is unaware of any written public comment.

Conclusion

The applicant requests approval of a conditional use approval to establish a restaurant-nightclub on the eight floor of an eight-story at 823 East Washington Avenue in a TE district zoning and Urban Design District 8. Planning Division. When considering the intended operation and character of surrounding development, Staff believes the Plan Commission can find standards for conditional uses met.

Recommendation

Planning Division Recommendation (Contact Colin Punt, (608) 243-0455)

The Planning Division recommends that the Plan Commission finds that the standards for conditional uses are met and **approve** the request to establish a restaurant-nightclub on the eight floor of an eight-story hotel at 823 East Washington Avenue. This recommendation is subject to 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. The proposed restaurant-nightclub shall comply with Supplemental Zoning Regulations Section 28.151 Restaurant-Nightclub. The maximum capacity will 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. The restaurant-nightclub must serve food at all hours it is open.

Engineering Division – Mapping Section (Contact Jeff Quamme, (608) 266-4097)

2. The address of the restaurant on the 8th floor is 823 E Washington Ave STE 801. 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.

Traffic Engineering Division (Contact Luke Peters, (608) 266-6543)

3. Applicant shall submit for review a Commercial Delivery Plan. This plan will include times, vehicle size, use of loading zones and all related turning movements.
4. Applicant shall submit for review a Waste Removal Plan. This shall include vehicular turning movements, times, vehicle size, use of loading zones and all related steps to remove trash from its location.

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

5. 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).
6. Metro Transit would initially estimate the following counts of potentially eligible trips towards US Green Building Council/LEED Quality Access to Transit points: 130 Weekday & 97 Weekend. Please contact Metro Transit if additional analysis would be of interest.

The Planning Division, City Engineering Division, Fire Department, Parks Division, Water Utility, and Parking Utility have reviewed this request and has recommended no conditions of approval.