

PLANNING DIVISION STAFF REPORT

August 7, 2023



PREPARED FOR THE PLAN COMMISSION

Project Address: 1145 North Sherman Avenue (District 12, Ald. Latimer Burris)

Application Type: Conditional Use

Legistar File ID #: [78637](#)

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

Reviewed By: Tim Parks, Planner

Summary

Applicant & Contact: Connee Jones; Hayes Place; 1145 North Sherman Avenue, Madison, WI 53704

Property Owner: Northgate Ventures, LLC; 2450 Rimrock Road, Madison, WI 53713

Requested Action: Consideration of a conditional use in the Commercial Corridor – Transitional (CC-T) District to establish a nightclub in an existing multi-tenant commercial building at 1145 North Sherman Avenue.

Proposal Summary: The applicant proposes to operate an event-based business with live entertainment, including poetry readings and comedy shows.

Applicable Regulations & Standards: Standards for Conditional Uses are found in §28.183(6) M.G.O. Supplemental Regulations for nightclubs are found in §28.151 M.G.O. A nightclub is an establishment in which fermented malt beverages or intoxicating liquors are sold for consumption upon the premises and which holds an entertainment license under Sec. 38.06(11) and may serve meals and include kitchen facilities (§28.211 M.G.O.)

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 request to allow a nightclub in the Commercial Corridor – Transitional (CC-T) District at 1145 North Sherman Avenue. This request is subject to the input at the public hearing and the conditions recommended by the reviewing agencies.

Background Information

Parcel Location: The 244,047 square-foot (5.6-acre) parcel is along North Sherman Avenue between Aberg Avenue and Roth Street. It is located within District 12 (Ald. Latimer Burris) and the Madison Metropolitan School District.

Existing Conditions and Land Use: The multitenant commercial building is located in the Northgate shopping center. Three additional commercial buildings occupy the shopping center. It is zoned Commercial Corridor – Transitional (CC-T) District.

Surrounding Land Use and Zoning:

North: Three (3) one-story commercial buildings, zoned Commercial Corridor – Transitional (CC-T) District;

East: Across Ruskin Street, single family residences, zoned Traditional Residential – Urban 1 (TRU-1) District;

South: One-story gas station, one-story auto repair garage, single family home, and multifamily building, zoned CC-T District; and

West: Across North Sherman Avenue, one-story bank, zoned CC-T District; three-story multifamily building, zoned Planned Development (PD) District.

Adopted Land Use Plan: The [2018 Comprehensive Plan](#) recommends Community Mixed Use (CMU) development for the subject property. The [Emerson East-Eken Park-Yahara Plan](#) (2015) does not have a specific land use recommendation. The [Oscar Mayer Special Area Plan](#) (2020) recommends a mix of CMU and High Residential (HR) development.

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

Requirements	Required	Proposed
Front Yard Setback	5 ft	Existing, no change
Max. Front Yard Setback	65 ft	Existing, no change
Side Yard Setback	None	Existing, no change
Rear Yard Setback	None	Existing, no change
Maximum Lot Coverage	85%	Existing, no change
Maximum Building Height	5 stories/78 ft	Existing, no change

Table Prepared by Jacob Moskowitz, 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.

Related Approvals

On December 6, 2022, the Common Council, based on the recommendation of the Alcohol License Review Committee (ALRC), approved a 21+ Entertainment License [MGO§38.06(11)(c)] for 1145 North Sherman Avenue (Legistar ID [74252](#)). A 21+ Entertainment License allows a holder of a "Class B" and/or Class "B" intoxicating liquor or fermented malt beverage license to host live entertainment on the premises. The Council did not place any conditions on the approval.

Project Description, Analysis and Conclusion

The applicant intends to establish a nightclub at 1145 North Sherman Avenue in an existing multi-tenant commercial building in the Northgate shopping center. The building is primarily occupied by service and retail businesses. The Northgate shopping center is also occupied by three other commercial buildings, including the Dane County Human Services Department and Dane County Job Center.

Per the applicant, they plan to operate an "event-based business" that offers a variety of workshops and classes, such as "paint-and-sip" events, several times per month. Other events may include "pop-up shops" and networking events. They would also offer live entertainment such as poetry readings and comedy shows twice per month. A conditional use for a nightclub is required to host live entertainment at a premises that also sells alcohol. Per the applicant, the standard hours of operation are Tuesday to Thursday from 5:00 p.m. to 9:00 p.m., Friday from 5:00 p.m. to 12:00 a.m., and Saturday from 10:00 a.m. to 12:00 a.m. Hours of operation may change based on events.

Conformance with Adopted Plans

The [2018 Comprehensive Plan](#) recommends Community Mixed-Use (CMU) development for the subject property. Employment, retail, civic, institutional, and service uses serving both adjacent neighborhoods and wider community markets are recommended for CMU areas. The [Oscar Mayer Special Area Plan](#) (2020) recommends a mix of CMU and High Residential (HR) development on the subject property. The [Emerson East–Eken Park–Yahara Plan](#) (2015) does not have a specific land use recommendation for the subject property.

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 of adopted plans, staff do not believe the proposed nightclub would impede Community Mixed-Use or High Residential development in the future.

Regarding conditional use standard #3, “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.” Although the proposed operations include limited live entertainment, it is possible the operations could change in the future. To limit potential noise impacts for surrounding properties staff recommend the following condition of approval, as noted at the end of the report, “Live entertainment events shall not occur after 10 p.m. Sunday to Thursday, and 12 a.m. Friday and Saturday. 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 following a recommendation by the district alder.”

Staff do not anticipate that the establishment of a nightclub use as proposed would result in significant negative impacts to the surrounding properties. 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).

Staff believes that the Conditional Use approval standards can be found met.

Conclusion

Staff believe that the proposed nightclub can be found to meet the Conditional Use approval standards and recommends that it be approved by the Plan Commission, subject to input at the public hearing and comments from reviewing agencies.

At the time of report writing, staff was not aware of any concerns about this request.

Recommendation

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

The Planning Division recommends that the Plan Commission find that the approval standards for conditional uses are met and **approve** the request to allow a nightclub in the Commercial Corridor – Transitional (CC-T) District at 1145 North Sherman Avenue. 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 (Contact Lisa McNabola, 243-0554)

1. Live entertainment events shall not occur after 10 p.m. Sunday to Thursday, and 12 a.m. Friday and Saturday. 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 following a recommendation by the district alder.

Zoning (Contact Jacob Moskowitz, 266-4560)

2. Shall at all times operate consistent with and according to the requirements of a valid liquor alcohol license issued by the City.

Fire Department (Contact William Sullivan, 261-9658)

3. Provide clarification on whether existing fire walls will be removed to create a larger building and update plans accordingly.

City Engineering Division – Mapping Section (Contact Julius Smith, 264-9276)

4. The address of this tenant space is 1145 N Sherman Ave STE 101. The space is located off of a common corridor. 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.

The following agencies reviewed the request and recommended no conditions of approval: City Engineering Division, Traffic Engineering, Parks Division, Forestry, Water Utility, Metro Transit, and Parking.