

# PLANNING DIVISION STAFF REPORT

March 2, 2026



PREPARED FOR THE PLAN COMMISSION

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

**Legistar File ID #:** [91510](#)

**Prepared By:** Chris Wells, Planning Division and Kevin Firchow, AICP, Principal Planner  
Report Includes Comments from other City Agencies, as noted

**Reviewed By:** Meagan Tuttle, AICP, Planning Division Director

## Summary

**Applicant and Contact:** Kirk Bangstad; Minocqua Brewing Company Madison Tap Room; 2927 E Washington Avenue; Madison, WI 53704

**Property Owner:** Nancy Koberle; 2927 E Washington Avenue; Madison, WI 53704

**Requested Action:** Consideration of a conditional use in the Commercial Corridor-Transitional District (CC-T) District for amplified sound in an outdoor eating area for a tasting room at 2927 E Washington Avenue.

**Proposal Summary:** The applicant is requesting approval to have amplified sound (amplification of television and live music) in the existing outdoor eating area associated with a tap room in a multi-tenant commercial building.

**Applicable Regulations & Standards:** Supplemental Regulations for *Outdoor eating area, temporary, associated with food and beverage establishment* are found in MGO Section 28.151, of which Regulation C states, "No amplified sound is permitted in all districts except MXC, CC and RMX, unless allowed as part of the conditional use approval." Standards for conditional uses are found in MGO Section 28.183(6).

**Review Required By:** Plan Commission

**Summary Recommendation:** The Planning Division recommends the following to the Plan Commission regarding 2927 E Washington Avenue:

- That the Plan Commission finds the conditional use standards are not met and **place the request on file without prejudice**. In placing the conditional use request on file without prejudice, the Plan Commission must provide findings of fact, listing the standards that have not been met and the reasons such standards were not met.

However, in the alternative, should the Plan Commission find that the standards for approval are met, the Plan Commission should provide its findings of fact and approve the conditional use subject to the input at the public hearing and recommended conditions, beginning on page 8 of this report.

## 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 E 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 yard setback
Maximum Lot Coverage	85%	Existing lot coverage
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 of 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	Existing landscaping
Lighting	Not required	Existing lighting
Building Form and Design	Not required	Existing building

<b>Other Critical Zoning Items</b>	Urban Design (UDD #5); Barrier Free (ILHR 69); Utility Easements; TOD Overlay District
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*Tables 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.

## Related Approvals and Reviews

At its November 13, 2023 meeting, the Plan Commission found the standards met and approved a conditional use in the Commercial Corridor-Transitional (CC-T) District for a tasting room at 2927 E Washington Avenue. (ID [80221](#))

On May 20, 2024, the Plan Commission found the standards met and approved 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. (ID [82947](#)).

In August of 2024, a conditional use minor alteration was approved to allow an outdoor eating area behind the building. While tap rooms and free-standing vending required conditional use approval, outdoor eating areas that close by 9:00 pm and do not have outdoor amplified sound are permitted uses.

On April 28, 2025, the Plan Commission found that the conditional use request for approval for amplified sound in an outdoor eating area for the tasting room at 2927 E Washington Avenue did not meet the standards of approval and placed the request on file without prejudice. (ID [87634](#)) In denying the conditional use, members of the Plan Commission cited that Standard 3 was not met due to the location [of the outdoor eating area with proposed amplified sound] next to residential property. Furthermore, in referencing MGO Section 28.186(6)(b)(1), the Plan Commission cited the City of Madison Building Inspection Enforcement Notice which was sent to the applicant on October 11, 2024. (That notice informed the applicant that they were violating the supplemental regulations of the administratively approved outdoor eating area, namely the requirement to close by 9:00 pm and not have amplified music.) The Plan Commission cited this prior enforcement notice and stated that getting the building operating under its current approval first would be appropriate.

## Project Description, Analysis, and Conclusion

The applicant, Minocqua Brewing Company, currently operates a tap room in a multi-tenant commercial building at 2927 E Washington Avenue. The tap room occupies the middle unit with the other spaces occupied by a liquor store and pay day loan business. The tap room has an existing outdoor eating area, roughly 1,100-square-foot outdoor eating in area, located just to the southwest of the building. It was approved administratively in August of 2024 (per the supplemental regulations for the use – *Outdoor eating areas, temporary, associated with food and beverage establishments* – are permitted uses, if their hours of operation end at 9:00 pm and they have no amplified sound). With this application, the applicant is requesting approval to have amplified sound out in the outdoor eating area but is not proposing to increase the hours of operation past 9:00 pm.

While the applicant states in their submitted materials that they are seeking amplified sound approval specifically around Badger football games, in follow-up communications with staff, they confirmed that the scope of their request was instead to have “*amplified music on Saturdays, 3:00 to 6:00 pm, between May and October, and then to be able to play Badger football games outside with amplified sound whenever they’re playing until it gets too cold to sit outside.*” They have also stated that the beer garden will continue to close no later than 9:00 p.m.

Regarding the outdoor music, the applicant anticipates holding small concerts/performances in the space. It is anticipated that the performances will take place in the southwest corner of the space, just north of the garage. The applicant has communicated to staff that it will typically be choral, classical, Celtic, and bluegrass. As for

the size of musical groups/ensembles/bands, the applicant anticipates *“likely no more than 5-6 people per group (like brass quintets maybe or bluegrass bands).”* As for the need for amplification, the applicant states, *“guitars need to be amplified, voices that aren’t classically trained need to be amplified, speeches need to be amplified, badger game broadcasting needs to be amplified. The arts, by definition, don’t fit neatly in a box. One never knows when one needs to amplify an instrument or voice in an outdoor space to create a beautiful blend of voices. We want to have these options.”*

Staff understands that the applicant has been holding outdoor music events without amplification over this past year, which is allowed. Since the Commission’s consideration of the prior conditional use request in April 2025, Staff is unaware of any complaints filed with Zoning regarding activities occurring in the outdoor eating area that are not permitted under any prior approvals. Additionally, comments related to this current proposal have been provided and uploaded to the legislative file.

### **Supplemental Regulations**

Per MGO Section 28.151, *Outdoor Eating Areas Associated with Food and Beverage Establishments* are subject to the following Supplemental Regulations:

- 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.

Regarding Supplemental Regulation d, staff note that a solid wooden fence currently surrounds the outdoor eating area. Later in this report is a discussion of the mitigation measures the applicant is proposing to reduce noise impacts via sound blankets and the use of a decibel (sound) meter.

### **Conformance with Adopted Plans**

The [Comprehensive Plan](#) (2023) recommends Community Mixed-Use (CMU) development for the subject property and adjacent properties along E 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. These land use recommendations do not provide specific recommendations related to outdoor amplified sound.

### **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.

Section 28.183(6) of the Madison General Ordinance lists sixteen conditional use approval standards, of which not all are applicable to every conditional use. For this request, Standards 7-16 do not apply, while Standards 1-6 are applicable. Staff believe that the Plan Commission can find Standards 1-2, and 4-6 to be met, but raises concerns related to Standard 3.

Conditional Use Approval Standard 3 states, “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.” Finding this standard met remains staff’s primary question given the close proximity of the outdoor eating area to residential uses.

As with the previous request, the concern relates to the proximity of the outdoor eating area to surrounding residential uses and whether allowing outdoor amplified sound can be found to meet the above standard. The proposed outdoor eating area, at the rear of the commercial business, directly abuts a residential property and is roughly 40 feet from the nearest dwelling unit (the single-family residence located to the south at 242 Oak Street). Other residences in the neighborhood that are zoned and planned for residential development are also nearby.

Staff have again reviewed conditional use approvals for outdoor eating areas dating back to mid-2015. There have been 81 such requests during that timeframe. Of this number, the Plan Commission approved amplified sound for ten of these (roughly 12 percent of the time). In their approval conditions, the Plan Commission specified that outdoor amplified sound was not allowed for 56 applications (roughly 69 percent of the time). For the ten outdoor eating areas approved with amplified sound, staff note that the median distance to residential units was approximately 175 feet. (See Table 1, below)

**Table 1: Requests for Outdoor Eating Area which Came Before the Plan Commission Since mid-2015**

Amplified Sound Allowed by the Plan Commission in the Outdoor Eating Area?	#	%	Approximate Distance to Nearest Residential Unit		
			Median	Average	Range
Yes	10	12%	175 ft	277 ft	0** - 820 ft
No	56	69%	45 ft	65 ft	0** - 310 ft
None Proposed	15	19%	330 ft	411ft	0** - 820 ft

**TOTAL 81**

As for those outdoor eating areas located similarly close to residential development (i.e. within 40 feet), of the 27 proposals which meet this criteria since mid-2015, only one such request was approved to have amplified outdoor sound – the Mint Mark restaurant’s outdoor eating area (located at 1874 E Washington Avenue, Legistar File ID [82730](#)). This outdoor eating area has seating for 40-60 patrons and is located at the south corner of the newly-constructed mixed-use building. No off-site dwelling units were within 40 feet of that outdoor eating area.

To address sound impacts, the applicant proposes some sound mitigation efforts. Importantly, staff note that the current application minimizes the frequency and duration of times when outdoor amplified sound would be allowed compared to the 2025 submittal. As proposed, amplified sound would be limited to late afternoons on Saturdays (from 3:00 to 6:00 pm) between May and October and would also allow amplified sound from UW Badger Football game television broadcasts to be played.

***Applicant Suggested Mitigation Measures:***

- ***Hours Limitations.*** Though different from the submitted letter of intent, in follow up correspondence from the applicant, the Planning Division understands the intent of the request is for outdoor amplified sound to be allowed on Saturdays from 3:00 p.m. to 6:00 p.m. between May and October, and during University of Wisconsin Badger football games. Dates and times for those games have not been specified.
- ***Installation of Sound Mitigating Curtains.*** In correspondence with staff, the applicant indicates they, as with their previous 2025 request for amplified sound, would install outdoor sound mitigating curtains (exterior sound reducing panels) on the inside face of the fences around the area. According to the manufacturer's website, such blankets have a noise reduction coefficient (NRC) of .70 to .85 (meaning that 75- to 80-percent of the sound striking the sound curtains will be absorbed.) Staff believe the effectiveness would depend on various factors, including how and where they are installed and their relationship to sound sources. At the time this report was finalized, the applicant had not provided details indicating exactly where they will be installed, how closely together, etc.
- ***Decibel Monitoring.*** The applicant proposes to use decibel (sound) meters to make sure they do not exceed allowed levels as measured at the property lines, and if they are exceeded, the business would take action and turn down the volume. While staff appreciate the intent and do not object to the applicant performing decibel monitoring, based on discussions with City Building Inspection, the City's experience is that there are practical challenges in relying on this to enforce sound levels for this type of sound.

The 65 dBA limit established in MGO Section 24.08(6)(a) pertains to the noise from mechanical equipment, not music. Staff also note that dBA limits have not been found to be an effective or practically enforceable way to measure noise levels associated with live musical sounds due to factors that include varying intonations of different types of music and environmental conditions which affect sound measurement including but not limited to weather conditions, ambient conditions such as loud vehicle traffic, and proximity to surrounding buildings and structures which bounce sound. As such, staff do not oppose the applicant proceeding with such efforts, but have not recommended this as an approval condition.

***Additional Staff Recommended Mitigation Measures:***

If the Plan Commission can find the standards met, then staff recommends that additional measures be considered as approval conditions:

- ***Limit Approval Period to One Year.*** As a recommended condition, this initial Conditional Use approval would be valid only for one year. After that year, the applicant would need to apply to extend the Conditional Use approval. Staff believe such a condition to be worthy of consideration since, given the proximity to residential uses, the actual noise impacts could vary considerably based on various factors including how the amplified sound is utilized and managed.

There is precedent for this type of condition. In 2014, the Tip Top restaurant was approved for an outdoor eating area with hours until 10:00 p.m. and no amplified sound. However, in July 2015, the outdoor eating area, which is located just 45 feet from a single-family residence, came back before the Plan Commission under its continuing jurisdiction due to noise complaints (Legistar File ID [39084](#)). The Plan Commission's 2015 approval of the use of the outdoor eating area (which still did not include amplified sound) included a condition specifying that the approval was good only for a year and that a new application would be required thereafter. More recently, The Plan Commission approved a Conditional Use for the Essen House Site (506-518 E Wilson Street and 134-148 S Blair Street). Prior approvals were limited to one year, with the most recent February 2, 2026 approval for a two year period (Legistar ID [91287](#)).

- **Further Limit Allowed Events During One-Year Approval.** Staff would further recommend that during this initial year, the scope of events be further limited beyond what is being proposed. Staff would recommend that outdoor amplified sound, regardless of associated event(s), be allowed no more than one Saturday per month, between May and August 2026, and between 2:30 p.m. and 6:00 p.m. on selected Saturdays. Noting the applicant's intent to play audio during University of Wisconsin football games, the applicant could alternatively have outdoor amplified sound between 11:00am and 3:00pm, one Saturday per month in September and October.
- **Noise Mitigation and Operating Plan.** In order to establish a more detailed and clear understanding of operational plans and mitigation efforts, the applicant's proposed mitigation efforts are recommended to be specifically noted in a plan to be reviewed and approved by City Building Inspection and the Planning Division. This should include more details on stage/speaker set up, curtain installation, and any other mitigation plans. Additionally, staff would request that this includes a tentative schedule.

Finally, staff note that 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).

## Public Comment

At the time this staff report was finalized, two comments have been received, both expressing concerns given the proximity of the proposed amplification to the nearby residential units. Both comments have been included in the public record for this request (Legistar ID [91510](#)).

## Conclusion

The applicant is requesting conditional use approval to add outdoor amplified sound to an existing, approved outdoor seating area in a patio behind the existing building. The patio area abuts a property planned and zoned for residential development and is within approximately 40 feet of an existing residence. Outdoor eating areas are permitted in the Zoning Code provided they close at 9:00 pm and have no outdoor amplified sound. The inclusion of outdoor amplified sound can only be allowed if Conditional Use approval is granted by the Plan Commission after finding all of the Conditional Use Standards are met.

A different request for outdoor amplified sound was previously placed on file by the Plan Commission on April 28, 2025. With this current request, the applicant is again proposing outdoor amplified sound but has reduced the frequency and duration of when it would be allowed.

Due to the proximity of this outdoor eating area to residential uses, staff continue to have concerns related to Conditional Use Standard 3. Staff believes that limiting the frequency of events is one important step towards addressing Standard 3. However, frequency aside, the area directly abuts a residential use which provides challenges in mitigating sound impacts. The amplified sound impacts will vary based on factors such as the volume levels, location/setup of stage and speakers, size of performing ensembles, types of amplification, and effectiveness of on-site management and mitigation efforts.

Careful attention should be given to all of the submitted materials and input at the public hearing. Due to the proximity issues, staff cannot definitively conclude Standard 3 is met. However, should the Plan Commission find the standards are met, staff have recommended several conditions in addition to the applicant's recommended mitigation efforts.

Finally, staff note that 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).

## Recommendation

**Planning Division Recommendation** (Contact Chris Wells, (608) 261-9135) or Kevin Firchow, (608) 267-1150))

The Planning Division recommends the following to the Plan Commission regarding 2927 E Washington Avenue:

- That the Plan Commission finds the conditional use standards are not met and **place the request on file without prejudice**. In placing the conditional use request on file without prejudice, the Plan Commission must provide findings of fact, listing the standards that have not been met and the reasons such standards were not met.

However, in the alternative, should the Plan Commission find that the standards for approval are met, the Plan Commission should provide its findings of fact and approve the conditional use subject to the input at the public hearing and the recommended conditions listed below.

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

**Planning Division** (Contact Chris Wells, (608) 261-9135) or Kevin Firchow, (608) 267-1150))

1. That upon final sign-off and meeting of conditions, amplified sound in the outdoor eating area at 2927 E Washington Avenue is allowed only between May 1, 2026 through October 31, 2026. Any future amplified sound in the outdoor eating area after this date shall require approval by the Plan Commission following the submittal of a new application request and public hearing.
2. No sooner than May 1 through August 31, 2026, amplified sound is allowed on one Saturday a month, between the hours of 2:30-6:00 pm. During the months of September and October 2026, the applicant may alternatively choose to have outdoor amplified sound between 11am and 3pm (instead of 2:30-6:00 pm), one Saturday per month in September and October 2026.

3. That a noise attenuation and management plan (which includes an implementation plan) prepared by the applicant, be submitted to the Building Inspection and Planning Divisions for approval prior to final sign off. Such a plan should include further information related to considerations such as stage setup(s), speaker placement, location and type sound mitigation features, and other similar details. Information should also include information on event scheduling.
4. That the applicant installs a sound mitigating curtain system on the fence surrounding the outdoor eating area, as proposed by the applicant and described in this report. An alternative system would be considered if it is determined to be functionally the same or provide a higher level of sound mitigation. Details shall be approved by Planning and Building Inspection staff.

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

5. The beer garden shall comply with Zoning Code Supplemental Regulations Section 28.151 for Outdoor Eating Areas Associated With Food and Beverage Establishments. The hours of operation for the beer garden shall end at 9:00 p.m. unless extended through a Conditional Use approval.

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