



PREPARED FOR THE PLAN COMMISSION

**Project Address:** 1817 E Washington Avenue (District 6 – Ald. Rummel)  
**Application Type:** Conditional Use  
**Legistar File ID #** [53121](#)  
**Prepared By:** Sydney Prusak, Planning Division  
Report Includes Comments from other City Agencies, as noted  
**Reviewed By:** Kevin Firchow, AICP, Planning Division

**Summary**

**Applicant & Property Owner:** Marc Buttera; O’so Brewing Co.; 3028 Village Park Drive; Plover, WI 54481  
**Property Owner:** Matthew Tills; Motis; 84 W. Lakeside Street Ste A; Madison, WI 53715

**Requested Action:** The applicant requests approval of two conditional uses to establish a tavern and an outdoor eating area in an existing multi-tenant commercial building on a property zoned TE (Traditional Employment District) at 1817 E Washington Avenue.

**Proposal Summary:** The applicant proposes to establish a tavern and an outdoor seating area in an existing mixed-use building (The Marling). The seating area will be located immediately adjacent to the restaurant on the existing front walkway and will have a capacity of 38 persons.

**Applicable Regulations & Standards:** This proposal is subject to the standards for Conditional Uses [MGO §28.183] as MGO §28.082 lists *taverns* and *outdoor eating areas associated with food and beverage establishments* as conditional uses in the Traditional Employment (TE) Zoning District. The Supplemental Regulations [MGO §28.151] contain further regulations for these uses.

**Review Required By:** Plan Commission. Exterior alterations related to the finishing for the tenant space for the tavern will be reviewed by the Secretary of the Urban Design Commission prior to issuance of permits.

**Summary Recommendation:** The Planning Division recommends that the Plan Commission find that the approval standards for conditional uses are met and **approve** the requests to establish a tavern and an outdoor eating area in an existing multi-tenant commercial building on a property zoned TE (Traditional Employment District) at 1817 E Washington Avenue. These requests are subject to the input at the public hearing and the conditions recommended by the reviewing agencies.

**Background Information**

**Parcel Location:** The entire subject site is 168,837 square-feet (3.88-acres) and is located between E Washington Avenue and E Main Street, immediately east of the Yahara River. The site is located within both Aldermanic District 6 (Ald. Rummel) and the Madison Metropolitan School District.

**Existing Conditions and Land Use:** The subject site contains a four-story, 220,000-square-foot mixed-use building that was completed this year (2018). In terms of first floor uses, future tenants include a dental office and chocolate shop, with a total of 15,100-square-feet of leasable commercial space. The proposed tavern will occupy a 1,283-square-foot tenant space.

**Surrounding Land Use and Zoning:**

- Northwest: Burr Jones Park, zoned CN (Conservancy District);
- Northeast: Immediately adjacent is an auto-repair facility facing E Washington Avenue and a two-story commercial building facing E Main Street, zoned IL (Industrial Limited);
- Southeast: Single and two family residences, zoned TR-C4 (Traditional Residential – Consistent 4); and
- Southwest: The Yahara River, with a commercial building and surface parking area, zoned TE beyond.

**Adopted Land Use Plan:** The [Comprehensive Plan \(2018\)](#) recommends community mixed-use for the subject property. The [Capitol Gateway Corridor Plan](#) recommends employment/residential for the subject site.

**Zoning Summary:** The project site is currently zoned Traditional Employment (TE).

Requirements	Required	Proposed
Lot Area	6,000 sq. ft.	168,837 sq. ft.
Lot Width	50 ft.	283.33 ft.
Usable Open Space	None	No change
Front Yard Setback	None	No change
Side Yard Setbacks	None	No change
Rear Yard Setback	20 ft.	No change
Maximum Lot Coverage	85%	No change
Maximum Building Height	5 stories/ 68 ft.	No change
Number Parking Stalls	19	50 (5)
Accessible Stalls	1	2
Loading	No	No
Number Bike Parking Stalls	6	6
Landscaping	Yes	Yes
Lighting	Yes	Yes
<b>Other Critical Zoning Items</b>	Urban Design (UDD 8), Floodplain, Utility Easements, Landmark Building	

*Table Prepared by Jacob Moskowitz, Assistant Zoning Administrator*

**Environmental Corridor Status:** The subject site is not located in a mapped environmental corridor.

**Public Utilities and Services:** This property is served by a full range of urban services, including seven-day Metro Transit along E Washington Avenue, with stops in the Yahara River Path intersection. Service on weekdays occurs every half-hour; service on weekends is once per hour. The last trips westbound towards the downtown and campus depart approximately at 11:10 PM on weeknights and 10:15 PM on weekend evenings. The final departures heading the opposite direction, towards East Towne Mall, depart around 11:55 PM during the week, and 11:05 PM on Saturdays and Sundays.

In addition, Metro submitted the following comments:

*“As part of the 2019 budget process, Metro Transit has again submitted an operating budget request that includes an investment proposal that would afford an increase to the bus service frequency in the East Washington Avenue corridor on weekends and holidays, to more frequent trips running every 30 minutes. The supplemental budget request for an approximate annual operating cost of \$450,000 - that would be necessary to implement this service frequency increase, by using four additional buses on weekends and holidays - did not get debated or adopted when it had been identified in last year’s 2018 operating budget request.”*

## Project Description

The applicant, O'so Brewing Company, proposes to establish a tavern with an outdoor seating area in an existing mixed-use building. The tavern will be located on the first floor within a 1,283 square-foot commercial space near the center of the building. The outdoor seating area will have 38 seats and will be located directly in front of the tavern within a fenced and landscaped area. As proposed, the indoor capacity for the tavern will be 49 persons.

Furthermore, the hours of operation for the tavern and outdoor seating area will be 3:00 PM to 11:00 PM Monday through Thursday, 11:00 AM to 11:00 PM Friday and Saturday, and 11:00 AM to 9:00 PM Sunday. There are currently 50 dedicated off-street parking stalls to serve the various commercial uses in the building. The applicant has indicated that no amplified sound will be played in the outdoor seating area.

## Analysis and Conclusion

### Conditional Use Standards

In regards to the approval standards, the Plan Commission shall not approve a conditional use without due consideration of the City's adopted plan recommendations, design guidelines, and finding that all of the conditional use standards of §28.183(6) MGO are met.

Staff believes that this proposed use is compatible with the [Comprehensive Plan \(2018\)](#), which recommends community mixed-use for the subject site. While [Capitol Gateway Corridor Plan](#) calls for employment and residential for the subject site, the property already includes 220 residential units, and was previously approved as a conditional use with dwelling units in a mixed-use building.

The Planning Division believes that the conditional use standards can be found met. While there are residential units above the proposed tavern and outdoor seating area, given the site's location along E Washington Avenue and lack of outdoor amplified sound, staff does not anticipate that the proposed conditional uses will have an adverse impact on the uses, values, and enjoyment or normal and orderly development of the site and surrounding properties.

The applicant has indicated that in the future a mezzanine may be added to the space. This interior expansion would increase the indoor capacity by 40 persons. If and when this renovation is proposed, it will be considered as an alteration to an existing conditional use. Whether this addition will be considered a major alteration or a minor alteration will be determined when the proposal is submitted for City review.

### Supplemental Regulations

M.G.O. §28.151 contains further regulations for outdoor eating areas associated with food and beverage establishments. First, primary access to the area shall be from within the establishment. According to the site plan provided, this requirement has been fulfilled. Second, hours of operation may be restricted and noise and lighting limits imposed as part of the conditional use approval. The Planning Division has provided conditions of approval to regulate the outdoor music and sound. Lastly, 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 neighborhood. Staff does not believe that the applicant needs to provide additional site improvements to mitigate the impacts on surrounding properties. While there are residential uses above the proposed tavern, the outdoor seating area will occupy a small space in front of the mixed-use building and is immediately adjacent to E Washington Avenue, which is a busy City thoroughfare.

## Conclusion

Staff believes that the proposed tavern and outdoor seating area can be found to meet the conditional use approval standards and recommends that it be approved by the Plan Commission. The Marquette Neighborhood Association unanimously voted to approve these conditional use requests and asked that the hours of operation for both the tavern and outdoor seating area do not exceed what was proposed in the application. These comments are included in the meeting packet as Attachment 1. At the time of report writing, staff was not aware of any concerns on this request.

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 Sydney Prusak, (608) 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 establish a tavern and outdoor eating area in an existing mixed-use building on a property zoned TE (Traditional Employment District) at 1817 E Washington Avenue. These requests are 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 Sydney Prusak, (608) 243-0554)

1. The hours of operation for the outdoor eating area located in front of the tenant space addressed as 1817 E Washington Avenue, shall be limited to 11:00 PM on Monday-Saturday and 9:00 PM on Sunday. Future modifications to the hours of operation of the outdoor eating area may be considered as a minor alteration of the conditional use following a recommendation by the District Alder.
2. The capacity of the outdoor eating area located in front of the tenant space addressed as 1817 E Washington Avenue shall not exceed 38 persons (note: the final details of the seating plan and capacity to be approved by the Building Inspection Unit). Future modifications to the capacity of the outdoor seating area may be considered as a minor alteration of the conditional use following a recommendation by the district alder and approval from the Building Inspection Unit.
3. There shall be no amplified sound, including, but not limited to television, ambient music or musical performances, in the outdoor seating area located in front of the tenant space addressed as 1817 E Washington Avenue.

### Traffic Engineering Division (Contact Sean Malloy, (608) 266-5987)

4. The applicant shall provide a clearly defined 5' walkway clear of all obstructions to assist citizens with disabilities, especially those who use a wheel chair or are visually impaired. Obstructions include but are not limited to tree grates, planters, benches, parked vehicle overhang, signage and doors that swing outward into walkway.

**Zoning** (Contact Jacob Moskowitz, (608) 266-4569)

5. As each tenant space is leased, the entire development must reflect compliance in the required amount, type and number of auto and bicycle parking spaces, to be reviewed prior to obtaining zoning approval for each use.
6. If you have a license to sell alcohol in an outdoor eating area, the Alcohol License Review Committee will establish conditions for operation, which involve fencing, security guards, toilet facilities, litter, etc. All businesses that sell alcohol must comply with the requirements imposed by the Alcohol License Review Committee at the time of issuance of your original application to expand or change your licensed premises to include the outdoor eating area. It is your responsibility to have the outdoor service area added to your licensed premise. Please contact the City Clerk's office for assistance with ALRC issues.
7. 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.

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

8. Metro Transit staff, as well as our passengers and other stakeholders in the Capitol East District, have identified that the existing hourly bus service frequency that operates on Route 6 along East Washington Avenue on weekends and holidays is inadequate for the densities and uses that are being proposed, and have been previously approved.
9. As part of the 2019 budget process, Metro Transit has again submitted an operating budget request that includes an investment proposal that would afford an increase to the bus service frequency in the East Washington Avenue corridor on weekends and holidays, to more frequent trips running every 30 minutes. The supplemental budget request for an approximate annual operating cost of \$450,000 - that would be necessary to implement this service frequency increase, by using four additional buses on weekends and holidays - did not get debated or adopted when it had been identified in last year's 2018 operating budget request.
10. Metro Transit provides daily bus service along East Washington Avenue, at stops in the Yahara River Path intersection. Trips operate at least once every 30 minutes on weekdays, but only pass once an hour each direction on weekends. The last trips westbound - towards the downtown and campus - depart approximately 1110pm on weeknights, and 1015pm on weekend evenings. The final departures heading the opposite direction, towards East Towne Mall, depart around 1155pm during the week, and 1105pm on Saturdays and Sundays.