



PREPARED FOR THE PLAN COMMISSION

Project Address: 803 E. Washington Avenue
Application Type: Conditional Use
Legistar File ID # [52210](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted.

Summary

Applicant: Trent Kraemer, Vintage II, Inc.; 674 S. Whitney Way; Madison.

Property Owner: Gebhardt Development; 801 E. Washington Avenue; Madison.

Requested Action: Approval of a conditional use for a restaurant-nightclub in a mixed-use building with outdoor eating areas 803 E. Washington Avenue.

Proposal Summary: The applicant is seeking to finish a 6,700 square-foot first floor commercial space in an eight-story mixed-use building located at 803 E. Washington Avenue with a restaurant-nightclub to be known as "Tangent." The proposed restaurant will have an indoor capacity of 400 persons, and will have an entertainment license, hence the classification of the business as a restaurant-nightclub. The restaurant-nightclub will have two outdoor eating areas with an overall capacity of 78 persons. Completion of the tenant build-out for the restaurant-nightclub will commence as soon as all regulatory approvals have been granted, with completion anticipated in November 2018.

Applicable Regulations & Standards: Table 28F-1 in Section 28.082 of the Zoning Code identifies restaurant-nightclubs as a conditional use in the TE (Traditional Employment) zoning district subject to supplemental regulations in Section 28.151. Outdoor eating areas for food and beverage establishment are conditional accessory uses subject to supplemental regulations in Section 28.151. Section 28.183 of the Zoning Code provides the process and standards for the approval of conditional use permits.

Review Required By: Plan Commission. Exterior alterations related to the finishing of the tenant space for the restaurant-nightclub 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 the standards met and **approve** a conditional use for a restaurant-nightclub in a mixed-use building with outdoor eating areas at 803 E. Washington Avenue subject to input at the public hearing and the conditions from reviewing agencies beginning on page 5 of this report.

Background Information

Parcel Location: An approximately 1.17-acre parcel extending along S. Livingston Street from E. Washington Avenue to E. Main Street; Aldermanic District 6 (Rummel); Urban Design District 8; Madison Metropolitan School District.

Existing Conditions and Land Use: The eight-story “Gebhardt” mixed-use building, zoned TE (Traditional Employment District).

Surrounding Land Uses and Zoning:

North: The Galaxie mixed-use development, zoned TE (Traditional Employment District); The Constellation mixed-use development, zoned PD;

South: Madison Gas & Electric yard and future City parking garage (“Capital East”), zoned TE;

West: Madison Gas & Electric yard, zoned TE;

East: Multi-tenant commercial buildings along E. Washington Avenue, including Robinia Courtyard, Madison Moving & Storage, etc.; one-story storage and commercial buildings along E. Main Street, zoned TE.

Adopted Land Use Plans: The [East Rail Corridor Plan](#) which identifies the site for commercial and industrial uses consistent with the historic use of the property as part of a larger employment center corridor that is centered along E. Main Street and generally extends from E. Washington Avenue to E. Wilson Street.

The [East Washington Avenue Capitol Gateway Corridor Plan](#) recommends the subject block for employment, with opportunities for commercial at the S. Livingston and S. Paterson street corners. The Plan includes specific recommendations for height, building placement, and design which have been codified in MGO 33.24(15) for Urban Design District 8.

The [Comprehensive Plan](#) recommends the subject site and the E. Washington Avenue frontage for Employment uses.

Zoning Summary: The site is zoned TE (Traditional Employment District):

Requirements	Required	Proposed
Front Yard	85’ maximum	42.9’
Side Yards	One-story: 5’	Adequate
Rear Yard	The lesser of 20% of lot depth or 20’	Adequate
Maximum Lot Coverage	85%	Less than 85%
Maximum Building Height	5 stories / 68’	1 story
Auto Parking	No minimum	7 proposed stalls + 7 existing stalls = 14 total stalls
Accessible Stalls	Yes	1
Bike Parking	Coffee shop: 5% of capacity of persons (2 minimum)	None (See conditions)
Loading	Not Required	0
Building Forms	Free-standing Commercial Building	(See conditions)
Other Critical Zoning Items		
Yes:	Urban Design (UDD 8), Barrier Free, Utility Easements	
No:	Floodplain, Wellhead Protection, Landmarks, Waterfront Development, Adjacent to Park	
<i>Prepared by: Jenny Kirchgatter, Assistant Zoning Administrator</i>		

Environmental Corridor Status: The property is not located in a mapped environmental corridor.

Public Utilities and Services: The site is served by a full range of urban services, including seven-day Metro Transit service along E. Washington Avenue, with stops in the Livingston Street 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 11:20 PM on weeknights, and 10:20 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:

“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. As part of the 2018 budget process, Metro Transit submitted an operating budget request that had included an investment proposal that would have afforded 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 approximate annual operating cost of \$400,000 - that would have been necessary to implement this service frequency increase, by using four additional buses on weekends and holidays - did not get debated or adopted in the final 2018 operating budget that was approved by the City.”

Previous Approvals

On December 12, 2016, the Plan Commission approved conditional uses to allow construction of the lower four floors of "The Cosmos" development (now known as "The Gebhardt"), containing 92,925 square feet of floor area, including a 40,000 square-foot theater/concert hall, at 801 E. Washington Avenue (now 803). At its January 23, 2017 meeting, the Plan Commission approved conditional uses to allow construction of the upper four office floors of the project. The overall eight-story mixed-use building contains 152,925 square feet of floor area. [ID [44825](#)]

As part of the conditional use approvals for the project, the applicant received both auto and bicycle parking reductions, the former owing largely to the City's Capital East parking garage being constructed across E. Main Street from the subject site. Other factors in the reductions included good transit service for the site and corridor and proximity to the Capital City Trail. A Transportation Demand Management Plan was also approved for the building, which applies to all employers, employees and occupants of the building.

Project Description

The applicant is requesting approval of a conditional use to finish the first floor commercial tenant space of the eight-story "The Gebhardt" mixed-use building adjacent to E. Washington Avenue with a restaurant-nightclub. The "Tangent" will be a full service restaurant and bar with an entertainment license, with an indoor capacity of 400 persons proposed in the 6,700 square-foot space. A floorplan showing the proposed interior layout, including a private dining room for events, is included with the application materials. The applicant is also seeking approval of two outdoor eating areas for the restaurant-nightclub, with a total capacity of 78 proposed. The location and layout of the two outdoor eating areas are shown on Sheet C200 of the plans submitted with the conditional use application. The restaurant-nightclub proposes to operate from 11:00 AM until bar time, seven days a week.

Supplemental Regulations

Section 28.151 of the Zoning Code includes the following supplemental regulations for a Restaurant-Nightclub, which is defined as “an establishment in which meals are provided and fermented malt beverages or intoxicating liquors are sold for consumption upon the premises and which holds an entertainment license under [MGO] Section 38.06(11).” The supplemental regulations that apply to this application are:

- (b) A Restaurant-Nightclub is a conditional use if established after the effective date of the ordinance and is open between the hours of midnight and 5 a.m.
- (c) Must serve food at all hours it is open.
- (d) Shall hold entertainment license under Section 38.06(11).
- (e) Shall at all times operate consistent with and according to the requirements of a valid alcohol license issued by the City.

Analysis & Conclusion

Restaurant-nightclubs, restaurant-taverns, restaurants, taverns, and accessory outdoor eating areas for food and beverage establishments are identified as conditional uses in the TE zoning district subject to supplemental regulations in Section 28.151.

The Planning Division believes that the Plan Commission may find the standards for approval met to allow the proposed restaurant-nightclub and outdoor eating areas on the first floor of the eight-story “Gebhardt” mixed-use building. Staff does not feel that the proposed conditional uses will have an adverse impact on the uses, values and enjoyment or normal and orderly development of the site or surrounding properties. Comments from the Marquette Neighborhood Association are attached, which ask that the outdoor eating areas close by 11:00 PM on Sunday-Thursday and 12:00 AM midnight on Friday and Saturday. Planning staff concurs with the hours restrictions, and recommends those hours be made a condition of approval. The neighborhood association also requested that the Alcohol License Review Committee and Common Council limit any outdoor amplification to 60 decibels.

Staff also believes that the subject conditional use requests are also consistent with the many recommendations for the site contained in the East Rail Corridor Plan, East Washington Avenue Capitol Gateway Corridor Plan, and Comprehensive Plan. All three plans generally recommend that the subject site and neighboring properties in the 800-block of E. Washington Avenue be developed with employment uses, with the first floor retail uses generally proposed along E. Washington Avenue also consistent with the Capitol Gateway Corridor Plan recommendation for commercial uses at the S. Livingston Street corner. The East Rail Corridor Plan identifies the site and surrounding properties located on the south side of E. Washington Avenue for commercial and industrial uses as part of a larger planned employment center corridor centered along E. Main Street. Both the Capitol Gateway Corridor Plan and East Rail Corridor Plan recommend that retail sales and service businesses should be primarily focused on meeting the needs of employees, customers and residents in the corridors and adjacent neighborhoods, with an emphasis on uses that generate pedestrian activity, including outdoor eating areas.

Recommendation

Planning Division Recommendation (Contact Timothy M. Parks, 261-9632)

The Planning Division recommends that the Plan Commission find the standards met and **approve** a conditional use for a restaurant-nightclub in a mixed-use building at 803 E. Washington Avenue with outdoor eating areas subject to input at the public hearing and the following conditions:

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

Planning Division

1. That the hours of operation for the outdoor eating areas be limited to 11:00 PM on Sunday-Thursday and 12:00 AM midnight on Friday and Saturday. The Director of the Planning Division may consider a minor alteration to the conditional use in the future to further modify the hours of operation for the outdoor eating areas following a recommendation by the district alder.
2. Approval of any exterior alterations related to the finishing of the tenant space for the restaurant-nightclub shall be approved by the Secretary of the Urban Design Commission prior to issuance of building permits.

The following conditions have been submitted by reviewing agencies:

City Engineering Division (Contact Brenda Stanley, 261-9127)

3. The current plan shows less than 4,000 square feet of disturbed area. If the plans are not revised, no Erosion Control or Storm Water Management Permits will be required.

City Engineering Division—Mapping Section (Contact Jeff Quamme, 266-4097)

This agency reviewed the request and has recommended no conditions of approval.

Traffic Engineering Division (Contact Eric Halvorson, 266-6527)

4. The applicant shall submit one contiguous plan for approval showing proposed conditions and one contiguous plan showing existing conditions for approval. The plan drawing shall be scaled to 1" = 20' and include the following, when applicable: existing and proposed property lines; parcel addresses; all easements; pavement markings; signing; building placement; items in the terrace such as signs, street light poles, hydrants; surface types such as asphalt, concrete, grass, sidewalk; driveway approaches, including those adjacent to and across street from the project lot location; parking stall dimensions, including two (2) feet of vehicle overhang; drive aisle dimensions; semitrailer movement and vehicle routes; dimensions of radii; and percent of slope.
5. The City Traffic Engineer may require public signing and marking related to the development; the developer shall be financially responsible for such signing and marking.
6. All bicycle parking adjacent pedestrian walkways shall have a two-foot buffer zone to accommodate irregularly parked bicycles and/or bicycle trailers.

7. The applicant shall adhere to all vision triangle requirements as set in MGO 27.05 (No visual obstructions between the heights of 30 inches and 10 feet at a distance of 25 feet behind the property line at streets and 10 feet at driveways.). Alteration necessary to achieve compliance may include but are not limited to; substitution to transparent materials, removing sections of the structure and modifying or removing landscaping elements. If applicant believes public safety can be maintained they shall apply for a reduction of MGO 27.05(2)(bb) - Vision Clearance Triangles at Intersections Corners. Approval or denial of the reduction shall be the determination of the City Traffic Engineer.
8. The applicant shall provide a clearly defined five-foot 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.
9. Items in the right of way are not approvable through the site plan approval process. Make a note on all pages showing improvements in the right of way that states: "The right of way is the sole jurisdiction of the City of Madison and is subject to change at any time per the recommendation/plan of Traffic Engineering Division and City Engineering Division."

Zoning Administrator (Contact Jenny Kirchgatter, 266-4429)

10. Provide an updated calculation and plan detail for lot coverage with the final submittal. The lot coverage maximum is 85%. Lot coverage is defined as the total area of all buildings, measured at grade, all accessory structures including pools, patios, etc., and all paved areas as a percentage of the total area of the lot, with the following exceptions: sidewalks or paved paths no wider than five (5) feet, pervious pavement, green roofs and decks.
11. Seventy-two (72) vehicle parking stalls are required for the restaurant-nightclub use. A vehicle parking reduction was previously approved as a conditional use by the Plan Commission for the existing mixed-use building (ID 44825; LNDUSE-2016-00122).
12. Bicycle parking shall comply with the requirements of Sections 28.141(4)(g) and 28.141(11). A minimum of 24 short-term bicycle parking stalls are required for the proposed restaurant-nightclub. A bicycle parking adjustment was previously approved for the mixed-use building (ID 44825; LNDUSE-2016-00122). It appears that the amount of bicycle parking required with the current proposal will conform to the approved bicycle parking adjustment.
13. Submit an updated landscape plan and landscape worksheet stamped by the registered landscape architect. Per Section 28.142(3) Landscape Plan and Design Standards, landscape plans for zoning lots greater than 10,000 square feet in size must be prepared by a registered landscape architect.
14. 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.
15. Signage approvals are not granted by the Plan Commission. Signage must be reviewed for compliance with Chapter 31 Sign Codes of the Madison General Ordinances and Section 33.24 Urban Design Commission

ordinances. Signage permits are issued by the Zoning Section of the Department of Planning and Community and Economic Development.

Fire Department (Contact Bill Sullivan, 261-9658)

The Madison Fire Department does not object to this proposal provided the project complies with all applicable fire codes and ordinances.

Water Utility (Contact Adam Wiederhoeft, 261-9121)

This agency reviewed the request and has recommended no conditions of approval.

Parks Division (Contact Kathleen Kane, 261-9671)

This agency reviewed the request and has recommended no conditions of approval.

Metro Transit (Contact Tim Sobota, 261-4289)

This agency reviewed the request and has recommended no conditions of approval.

Police Department

→ Comments from the Captain of the Central District are attached to this staff report.