

PLANNING DIVISION STAFF REPORT

May 6, 2024



PREPARED FOR THE PLAN COMMISSION

Project Address: 1874 East Washington Avenue (District 12 – Alder Latimer Burris)

Application Type: Conditional Use

Legistar File ID # [82730](#)

Prepared By: Colin Punt, Planning Division
Report includes comments from other City agencies, as noted.

Reviewed By: Kevin Firchow, AICP, Principal Planner

Summary

Applicant: Chad Vogel; Mint Mark; 1874 E Washington Ave; Madison, WI 53704

Contact: Jacob Morrison; Potter Lawson, Inc.; 749 University Row #300; Madison, WI 53705

Owner: Galway Companies; 800 W Broadway #400; Monona, WI 53713

Requested Action: The applicant is seeking approval of a conditional use for an outdoor eating area associated with a food and beverage establishment with hours of operation open after 9:00 p.m. and amplified sound in the CC-T district per §28.061(1), MGO and §28.151, MGO.

Proposal Summary: The applicant is seeking approvals to operate an outdoor eating patio until midnight (12 a.m.) Mondays through Fridays, and to allow for amplified music in the patio area.

Applicable Regulations & Standards: Standards for conditional use approval are found in §28.183(6) M.G.O.

Review Required By: Plan Commission

Summary Recommendations: The Planning Division recommends that the Plan Commission find that the conditional use standards are met and **approve** the requests for a conditional use for an outdoor eating area associated with a food and beverage establishment with hours of operation open after 9:00 p.m. and amplified sound at 1874 East Washington Avenue. This recommendation is subject to input at the public hearing and the conditions recommended by the Planning Division and other reviewing agencies beginning on page 4.

Background Information

Parcel Location: The subject site is 3.45 acres located at the northwesterly corner of East Washington Avenue and North First Street. The site is within Alder District 12 (Alder Latimer Burris) and the Madison Metropolitan School District.

Existing Conditions and Land Use: The site, zoned CC-T (Commercial Corridor - Transitional), is currently occupied by a six-story mixed-use building with 289 apartments and approximately 15,000 square feet of commercial space built in 2023.

Surrounding Land Uses and Zoning:

North: City of Madison Fleet Services/future public market, zoned PD (Planned Development district), and Madison Metropolitan Sewerage District pumping station and garage, zoned TE (Traditional Employment District);

South: Across East Washington Avenue, Single- and two-family residences zoned TR-V1 (Traditional Residential–Varied 1 District), an auto repair garage zoned IL (Industrial–Limited District), and a large mixed-use development, zoned TE;

West: Wisconsin Southern Railroad, zoned TE, with Burr Jones Field public park, zoned PR (Parks and Recreation District) beyond;

East: Across North First Street, Single- and two-family residences, zoned TR-C4 (Traditional Residential–Consistent 4 District) and a commercial building, zoned CC-T (Commercial Corridor–Transitional District).

Adopted Land Use Plan: The [Comprehensive Plan](#) (2018) recommends Community Mixed Use (CMU) for the site. The [East Washington Avenue Capitol Gateway Corridor Plan](#) (2008) currently recommends the subject site for community mixed-use, with a map note that future development be “mainly commercial and residential.” The [Emerson East-Eken Park-Yahara Neighborhood Plan](#) (2016) includes the subject site within the Public Market District and Emerson East Neighborhood Gateway sub-area, recommending complementary development that may occur surrounding the public market.

Zoning Summary: The subject property is proposed to be zoned CC-T (Commercial Corridor - Transitional District):

Requirements	Required	Proposed
Front Yard Setback	0’ or 5’	Adequate
Max. Front Yard Setback: TOD	20’	Adequate
Side Yard Setback: Street side yard	0’ or 5’	Adequate
Side Yard Setback: Other cases	None unless needed for access	Adequate
Rear Yard Setback: For corner lots, where all abutting property is in a nonresidential zoning district	The required rear yard setback shall be the same as the required side yard setback	Adequate
Usable Open Space: TOD	Not required	Existing useable open space
Maximum Lot Coverage	85%	Existing lot coverage
Minimum Building Height: TOD	2 stories	6 story existing building
Maximum Building Height	5 stories/ 78’	6 story existing building

Site Design	Required	Proposed
Number Parking Stalls	Not required: TOD	41 surface vehicle stalls
Accessible Stalls	Yes	2 surface accessible stalls
Loading	Not required	Existing loading area
Number Bike Parking Stalls	Restaurant-tavern: 5% of capacity of persons (11)	25 surface bike stalls
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 #4), Barrier Free (ILHR 69), Utility Easements, TOD Overlay
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Table Prepared by Jenny Kirchgatter, Assistant Zoning Administrator

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

Public Utilities and Services: The site is served by a full range of urban services.

Project Description

The applicant, representing Mint Mark, is requesting conditional use approval to allow an outdoor eating area with amplified sound and hours of operation after 9:00 p.m. The applicant proposes to extend the outdoor dining area's operating hours to midnight (12 a.m.) and provide recorded music from outdoor speakers. The restaurant's space is located in the southernmost corner of the first floor of the recently-constructed six-story mixed-use building at 1868 East Washington Avenue. The patio includes seats for 40-60 patrons at a combination of tables and bar seating located to the southwest of the restaurant space, between the building and the building's driveway and small surface parking lot. The patio is approximately 7 feet higher than the sidewalk/driveway elevation at the East Washington Avenue. A previously-approved shade structure and metal guardrails already exist on the patio. Several new planters are proposed for the patio. The applicant's letter of intent states the applicant will "continue to enforce strict noise policies...[to] not disrupt the surrounding residential areas." No new outdoor lighting is proposed.

Analysis & Conclusion

This request is subject to the standards for conditional uses. This section begins with a summary of adopted plan recommendations, conditional use standards, a very brief review of UDC action, and finally a conclusion.

Conformance with Adopted Plans

The [Comprehensive Plan](#) (2018) recommends CMU (Community Mixed Use) for the site. CMU areas consist of a relatively high-intensity mix of residential, retail, office, institutional, and civic uses, generally located adjacent to a major transportation corridor. The general development intensity range in CMU areas is residential densities of up to 130 dwelling units per acre and building heights between two and six stories. The [East Washington Avenue Capitol Gateway Corridor Plan](#) currently recommends the subject site for community mixed-use, with a map note that future development be "mainly commercial and residential." The Plan includes specific recommendations for height, building placement, and design which have been codified in MGO Section 33.24(15) as Urban Design District 8. The site is also located in the boundaries of the 2016 [Emerson East-Eken Park-Yahara Neighborhood Plan](#) includes the subject site within the Public Market District and Emerson East Neighborhood Gateway sub-area. The focus of the sub-area is the planned development of a public market on the City's former Fleets Services facility at North First and East Johnson Streets. However, the Plan includes recommendations for complementary development that may occur surrounding the public market.

Conditional Use Standards

In regard to conditional use approval standards, 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. Outdoor eating areas are often accompanied by light and noise, 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 location of the outdoor eating area along East Washington Avenue and near a major intersection, 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.

Urban Design Commission

The site is within Urban Design District 4. However, there are no exterior changes proposed, so the proposal has not been reviewed by the Urban Design Commission. The proposal has been reviewed and approved by the Urban Design Commission Secretary.

Conclusion

Staff believes that given the surrounding uses, the proximity to East Washington Avenue, and the adopted the plan recommendations, the Plan Commission can find the applicable conditional use standards of approval to be met and approve the conditional use request. Staff notes that as a conditional use, the Plan Commission retains continuing jurisdiction to review and resolve complaints that may arise on the operation of the conditional use.

At time of writing, Staff is unaware of written comment from the public.

Recommendation

Planning Division Recommendations (Contact Colin Punt 243-0455)

The Planning Division recommends that the Plan Commission find that the conditional use standards are met and **approve** the requests for a conditional use for an outdoor eating area associated with a food and beverage establishment with hours of operation open after 9:00 p.m. and amplified sound at 1874 East Washington Avenue. This recommendation is subject to input at the public hearing and the conditions recommended by the Planning Division and other reviewing agencies below.

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

Zoning Administrator (Contact Jenny Kirchgatter, 266-4429)

1. The outdoor eating area shall follow the supplemental zoning regulations of MGO Section 28.151 Outdoor Eating Areas Associated With Food and Beverage Establishments.

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

2. Update the street name on the building location map sheet to E Washington Ave. 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.

Metro Transit (Contact Tim Sobota, 261-4289)

3. Note: The applicant and property owner are notified that the property owner shall complete the installation and begin maintenance of the private seating amenity as identified on the plans submitted for review (as well as previously approved LNDUSE-2021-00053) and shown in the landscape plan area behind this bus stop zone. As the date for Zoning Compliance for LNDUSE-000053 was June 1, 2023, a Zoning enforcement action may be pursued to ensure installation and maintenance of said bench.
4. Metro Transit operates daily all-day transit service along E Washington Avenue adjacent this property - with trips at least every 30 minutes (every 15 minutes or less during the day on weekdays and Saturdays).

5. Metro Transit would initially estimate the following counts of potentially eligible trips towards US Green Building Council/LEED Quality Access to Transit points: 131 Weekday & 97 Weekend. Please contact Metro Transit if additional analysis would be of interest.

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