



PREPARED FOR THE PLAN COMMISSION

Project Address: 339 W Gorham Street

Application Type: Conditional Use

Legistar File ID # [79321](#)

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

Reviewed By: Kevin Firchow, AICP Principal Planner

Summary

Applicant: PC Madison, LLC c/o Jeff Hassman; 6207 University Avenue, #100; Cedar Falls, IA 50613

Contact: Robert Proctor; Axley Bryenelson, LLP; 2 E Mifflin Street, #200; Madison, WI 53702

Property Owner: Core Madison Gorham, LLC c/o/ Jason Keith; 1643 N Milwaukee Avenue; Chicago, IL 60647

Requested Actions: Consideration of a conditional use in an approved PD(SIP) (Planned Development District-Specific Implementation Plan) for a nightclub on the first floor of a mixed-use building at 339 W Gorham Street.

Proposal Summary: The applicant is requesting the approvals to locate a nightclub within a 10-story mixed-use building (Core Space’s oLiv Madison) which is currently under construction.

Applicable Regulations & Standards: This proposal is subject to the standards of approval for Conditional Uses [MGO §28.183(6)] as the Zoning Text for the underlying Planned Development - General Development Plan (PD-GDP) noted that, per MGO Section 28.098(4)(a), “*all permitted and conditional uses per the Urban Mixed-Use (UMX) District.*” (Table 28E-2 in MGO Section 28.072(1) notes that *nightclubs* are a conditional use in the UMX District). Furthermore, MGO Section 28.127(2) locates the subject site with the Alcohol Overlay District – the nine-block downtown area bound by Langdon Street, N Lake Street, University Avenue, N Broom Street, W Johnson Street and N Henry Street. Table 28H-1 in MGO Section 28.127(2) lists *nightclubs* as a conditional use in the district and notes that further regulations for the proposed use are located in the Supplemental Regulations section (MGO Section 28.151).

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 establish a nightclub at a property zoned Planned Development at 339 W Gorham Street. This request is subject to the input at the public hearing and the conditions recommended by the reviewing agencies beginning on **page 5** of this report.

Background Information

Parcel Location: The development site is 79,345 square feet (1.82 acres) in area and occupies the majority of the block bounded by State Street, W Johnson Street, N Broom Street, and W Gorham Street, with frontage along all four streets. The tenant space, in which the nightclub is proposed, is located on the ground floor, along the building’s W Gorham Street façade, just west of the State Street. It is located within Alder District 4 (Ald. Verveer) and the Madison Metropolitan School District.

Existing Conditions and Land Use: The subject site (tenant space) is located within a 10-story mixed-use building which is currently under construction. The property is zoned Planned Development (PD) district.

Surrounding Land Uses and Zoning: The subject site occupies the entire block with these exceptions: the 1-story commercial buildings and 2- and 3-story mixed-use buildings occupying the eastern corner of the block (301-327 State Street), all zoned Downtown Core (DC), and the 2-story office building (the former city fire station) occupying the southern corner of the block (301 N Broom Street), zoned Urban Mixed-Use (UMX).

Northwest: Across W Gorham Street, at the southwest end, is a 3-story, mixed-use building with two floors of office space above ground floor retail (at 328 W Gorham Street). Immediately to the east is an alley which provides off-street delivery access for the entire triangular block. The eastern half of the block contains three mixed-use buildings with three, four and six apartments above ground floor retail (at 411, 409 and 403 State Street respectively).

North: The blockface across State Street from the subject site is comprised of 1-story commercial buildings and 2- and 3-story, mixed-use buildings (with apartments or office space over ground floor commercial). In general, while the buildings in the middle third of the block are zoned Planned Development (PD), those on either side are zoned Development Core (DC).

Southeast: Across W Johnson Street is the 255-unit Ovation 309 development (at 309 W Johnson Street) and the 118-unit Capitol Centre Court Apartments development (at 344 W Dayton Street). Both are zoned Planned Development (PD). Just to the south of the intersection of W Johnson and N Broom streets is the 233-unit Domain development (at 406 W Johnson Street), which is zoned Urban Mixed-Use (UMX).

Southwest: Across N Broom Street is a single-family residence, and 2-, 3- and 4-unit apartments. All are zoned Urban Mixed-Use (UMX) District. The corner parcel, at the intersection with W Gorham Street, is vacant and zoned Conservancy (CN). Beyond the corner parcel is a 2-unit apartment (zoned UMX), beyond which is the Equinox, a 12-story, mixed-use building with 115 units above ground floor retail (409 W Gorham Street).

Adopted Land Use Plan: The 2018 [Comprehensive Plan](#) recommends Downtown Mixed-Use (DMU) development for the subject site’s entire block. The Plan notes that this includes “*intensive mixed-use development*” which is “*generally more focused on residential, retail, and service uses than Downtown Core (DC) areas, but may also include some government and employment uses.*” The 2012 [Downtown Plan](#) includes the subject building within the *State Street district* for which is recommends to reserve ground floor spaces along State Street “*primarily for retail sales and service uses, including eating, drinking and entertainment venues [...].*”

Zoning Summary: The site is proposed to be zoned to the PD (Planned Development) District

Requirements	Required	Proposed
Lot Area (sq. ft.)	As per approved plans	As per previously approved plans
Lot Width	As per approved plans	As per previously approved plans
Front Yard Setback	As per approved plans	As per previously approved plans
Side Yard Setback	As per approved plans	As per previously approved plans
Rear Yard Setback	As per approved plans	As per previously approved plans
Maximum Lot Coverage	As per approved plans	As per previously approved plans
Maximum Building Height	As per approved plans	As per previously approved plans
Lot Area (sq. ft.)	As per approved plans	As per previously approved plans
Lot Width	As per approved plans	As per previously approved plans

Site Design	Required	Proposed
Number Parking Stalls	As per approved plans	As per previously approved plans
Electric Vehicle Stalls	As per approved plans	As per previously approved plans
Accessible Stalls	Yes	As per previously approved plans
Loading	As per approved plans	As per previously approved plans
Number Bike Parking Stalls	Nightclub: 5% of capacity of persons	As per previously approved plans (See Comment #5)
Landscaping and Screening	Not required	As per previously approved plans
Lighting	Not required	As per previously approved plans
Building Form and Design	Not required	As per previously approved plans
Other Critical Zoning Items		
Yes:	Urban Design (Planned Development), Barrier Free (ILHR 69); Alcohol Overlay	
No:	Historic District; Floodplain, Wetlands, Wellhead Protection, Adjacent to Park, TOD Overlay	

Tables 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, including Metro Transit service which operates daily all-day transit service along West Gorham Street, West Johnson Street, State Street, and Broom Street near this property - with trips on most routes at least every 30 minutes.

Project Description

The applicant is requesting a conditional use for a nightclub at 339 W Gorham Street. The applicant is also pursuing both a liquor/beer and entertainment license and plans host live bands, comedians, private events and dancing in the 6,850-square-foot space. The 6,850-square-foot tenant space is located on the ground floor of Core Space’s oLiv Madison development, a mixed-use building with 386 units of housing intended for students and roughly 23,200 square-feet of commercial space. Located along the building’s W Gorham Street façade, just west of the State Street, the subject tenant space will be able to be divided into two (via a retractable partition) - a roughly 4,800-square-foot space (labelled ‘Roxxy II’ on the submitted plans) and a roughly 2,200-square-foot space (labelled ‘Roxxy I’ on the submitted plans). While the two spaces will be interconnected, each will have a bar, seating, and bathrooms as well as a separate vestibule and entrance/exit onto W Gorham Street. The total proposed capacity is 500, though Staff note that both Building Inspection as well as the Fire Department will be required to review the capacity prior to final sign off. The proposed hours of operation are 11 a.m. to 2 a.m., Sundays through Thursdays, and 11 a.m. to 2:30 a.m., Fridays and Saturdays.

Analysis

This proposal is subject to the standards of approval for Conditional Uses [MGO §28.183(6)] as the Zoning Text for the underlying Planned Development - General Development Plan (PD-GDP) noted that, per MGO Section 28.098(4)(a), “all permitted and conditional uses per the Urban Mixed-Use (UMX) District.” (Table 28E-2 in MGO Section 28.072(1) notes that *nightclubs* are a conditional use in the UMX District). Furthermore, MGO Section 28.127(2) locates the subject site with the Alcohol Overlay District – the nine-block downtown area bound by Langdon Street, N Lake Street, University Avenue, N Broom Street, W Johnson Street and N Henry Street. Table 28H-1 in MGO Section 28.127(2) lists *nightclubs* as a conditional use in the district and notes that further regulations for the proposed use are located in the Supplemental Regulations section (MGO Section 28.151).

Conformance with Adopted Plans

The 2018 [Comprehensive Plan](#) recommends Downtown Mixed-Use (DMU) development for the subject site's entire block. The Plan notes that this includes "intensive mixed-use development" which is "generally more focused on residential, retail, and service uses than Downtown Core (DC) areas, but may also include some government and employment uses." The 2012 [Downtown Plan](#) includes the subject building within the State Street district for which it recommends to reserve ground floor spaces along State Street "primarily for retail sales and service uses, including eating, drinking and entertainment venues [...]."

Conditional Use Standards

The Plan Commission may not approve an application for a conditional use unless it can find that all of the standards found in Section 28.183(6)(a), Approval Standards for Conditional Uses, are met. That section states: "The City Plan Commission shall not approve a conditional use without due consideration of the recommendations in the City of Madison Comprehensive Plan and any applicable, neighborhood, neighborhood development, or special area plan, including design guidelines adopted as supplements to these plans. No application for a conditional use shall be granted by the Plan Commission unless it finds that all of the [standards for approval in Section 28.183(6) are met]."

In reviewing the conditional use request to establish a nightclub, staff provides the following additional analysis related to Standard 3. Conditional Use 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."

Among the most significant potential negative impacts anticipated with the proposed establishment, particularly with residential units located directly above the nightclub space on the second floor, are potential noise impacts. In order to better understand exactly this issue, the applicant commissioned an acoustical study by an engineering firm. The [resulting report](#), which has been included in the submittal materials, also provided a list of recommendations for mitigating the sound impacts, which the applicant plans to implement in full. The list includes:

- Installing a High Isolation Acoustic Ceiling tile ceiling (referred to as the 'Good' option in the report) above the bathrooms at the east end of the tenant space;
- Installing a Gypsum Board Barrier Ceiling (referred to as the 'Better' option in the acoustical report) above the rest of the space;
- Full height, insulated partition walls continuously sealed to the structure (i.e. top and bottom) and doors with full-perimeter gasketing will be installed around the entire interior perimeter of the tenant space; and
- The window glazing along the space's exterior (street-facing) façade will be upgraded to the 'Better' exterior window assembly (i.e. the 1-1/8" laminated insulated glazing assembly)

The applicant has also noted that the sound study and installation of the recommended treatments are incorporated as requirements within the nightclub's lease, which also places sound limitations on the applicant to ensure that residential tenants will not be unreasonably disturbed. As for operations and ongoing monitoring, the applicant has noted that a decibel meter will be used on site to ensure that the sound level is consistent with what is desired within the facility and the strict procedures will be in place regarding the sound system, DJ booth, and shows to ensure that the sound limits are followed.

With the proposed acoustical treatments and ongoing monitoring, the Planning Division believes Standard #3, and therefore all of the conditional use approval standards, can be found met.

Supplemental Regulations

According to Table 28D-2 in MGO §28.065(2), a nightclub must adhere to the Supplemental Regulations found in MGO §28.151:

- (a) Shall hold entertainment license under [Section 38.06\(11\)](#), MGO.
- (b) Shall at all times operate consistent with and according to the requirements of a valid liquor alcohol license issued by the City.

The applicant's requests for an entertainment license and alcohol license are scheduled to be before the Alcohol License Review Committee on September 20, 2023. Therefore, with agency comments, staff believes that the Supplemental Regulations can be found met.

Public Input

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

Conclusion

With the proposed acoustical treatments and ongoing monitoring, staff believes 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.

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)

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 nightclub at a property zoned Planned Development at 339 W Gorham Street. 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 Chris Wells, (608) 261-9135)

1. The hours of operation for the nightclub shall be 11 a.m. to 2 a.m., Sundays through Thursdays, and 11 a.m. to 2:30 a.m., Fridays and Saturdays. Future modifications to the hours of operation of the nightclub may be requested by the applicant in the future as a minor alteration of the conditional use following a recommendation by the district alder.

2. That prior to sign-off, the applicant shall provide a management plan for staff approval that should reflect the commitments made in this application. Minor modifications to this final plan may be administratively approved if such alterations can be found to adequately address the same considerations. This Plan shall be approved by the Planning Division Director (or designee) and the use shall be operated in accordance with this plan.

City Engineering – Mapping (Contact Jeffrey Quamme, (608) 266-4097)

3. The address of Tap Tap is 347 State St.
The address of Olive is 351 State St.
The address of Roxxy I is 327 W Gorham St.
Roxxy II has 2 entrances, the primary entrance will be thru the vestibule entrance with the address of 335 W Gorham St.

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.

Parking Review (Contact Trent W Schultz, (608) 246-5806)

The agency reviewed this project and determined a Transportation Demand Management (TDM) Plan is not required.

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

4. The proposed nightclub shall comply with supplemental regulations Section 28.151 Nightclub.
5. Bicycle parking for the proposed nightclub tenant space shall comply with the requirements of MGO Sections 28.141(4)(g) and 28.141(11) and will be reviewed prior to obtaining zoning approval for the use. The minimum bicycle parking requirement for a nightclub use is equal to 5% of capacity of persons.
6. 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.
7. 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. Signage permits are issued by the Zoning Section of the Department of Planning and Community and Economic Development.

Madison Fire Department (Contact Bill Sullivan, (608) 261-9658)

8. The design shall comply with the applicable building and fire codes including but not limited to fire alarm sound levels and egress widths.
9. Each assembly occupancy shall obtain a Place of Assembly License prior to start of operations.

Metro Transit (Contact Timothy Sobota, (608) 261-4289)

10. Metro Transit operates daily all-day transit service along West Gorham Street, West Johnson Street, State Street, and Broom Street near this property - with trips on most routes at least every 30 minutes.
11. Metro Transit would initially estimate the following counts of potentially eligible trips towards US Green Building Council/LEED Quality Access to Transit points: 271 Weekday & 133 Weekend (average). Please contact Metro Transit if additional analysis would be of interest.

The following agencies have reviewed this request and recommended no conditions of approval:

Engineering (Main Office); Traffic Engineering; Parks; Forestry; and Water Utility