



PREPARED FOR THE PLAN COMMISSION

Project Address: 222 W Gorham Street (4th Alder District, Ald. Verveer)
Application Type: Conditional Use
Legistar File ID # [67800](#)
Prepared By: Chris Wells, Planning Division
Report Includes Comments from other City Agencies, as noted
Reviewed By: Kevin Firchow, AICP, Principal Planner

Summary

Applicant & Contact: Jeffery Kovacovich; Chinchilla JDK, LLC; 3356 N Newhall Street; Milwaukee, WI 53211
Property Owner: 222 Venture LLP; 10 E Doty Street, #30; Madison, WI 53703

Requested Action: The applicant requests consideration of a conditional use in the Downtown Core (DC) District to allow a restaurant-nightclub in an existing commercial building at 222 W Gorham Street.

Proposal Summary: The applicant proposes to establish a restaurant-nightclub in a building that was previously used as a restaurant-tavern in order to host live music a few times per week. No exterior changes and only minor interior changes to the building are planned.

Applicable Regulations & Standards: This proposal is subject to the standards for Conditional Uses [MGO §28.183] as Table 28E-2 in MGO §28.061 lists a *restaurant-nightclub* as a conditional use in the Downtown Core (DC) District. The Supplemental Regulations [MGO §28.151] contain further regulations for this use.

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 allow a restaurant-nightclub in an existing commercial building in the Downtown Core (DC) District at 222 W Gorham Street. This request is subject to the input at the public hearing and the conditions recommended by the reviewing agencies.

Background Information

Parcel Location: The approximately 8,712-square-foot (0.2-acre) parcel is located to the northwest of the intersection of W Gorham and State Streets. It is also located within Alder District 4 (Ald. Verveer) as well as the limits of the Madison Metropolitan School District.

Existing Conditions and Land Use: The parcel contains a roughly 11,600-square-foot, 2-story structure (with 1,130-square-foot mezzanine) which, according to City Assessor's Office records, was built in 1984 and remodeled in 2015. Is is zoned Downtown Core (DC) District.

Surrounding Land Use and Zoning:

Northwest: The 2-story and 2-unit Rohr Chabad House, zoned Urban Mixed-Use (UMX) District;
Northeast: The City's 57-stall Buckeye Parking Lot, zoned UMX;
Southeast: Across W Gorham Street is a mixed-use building with ground floor retail, and five units on the second and (partial) third floors (346 State Street), zoned Downtown Core (DC) District; and

Southwest: A liquor store with storage upstairs (402 State Street); a mixed-use building with ground floor retail and a 3-bedroom unit above (404 State Street); a mixed-use building with ground floor retail, second floor office and third floor storage space (414 State Street); and a 2-story, mixed-use building with ground floor retail (418 State Street). All are zoned DC.

Adopted Land Use Plan: The 2018 [Comprehensive Plan](#) recommends Downtown Mixed-Use (DMU) development for the subject site. 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.*” For details on heights, mix of uses, ground floor uses, pedestrian friendly design, and other considerations which the Plan notes “*must be addressed for development within this category*”, the Plan defers to the [Downtown Plan](#).

The 2012 [Downtown Plan](#) includes the subject site’s entire block in the “State Street” District which it seeks to “*maintain and enhance*” as Madison’s “*premier shopping, dining, entertainment and cultural destination, with a unique sense of place characterized by a vibrant, diverse and dynamic mix of uses, a distinctive pedestrian oriented streetscape, and human-scale developments that actively engage the street and promote synergy and interaction.*” (Objective 4.2, Page 44)

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.

Zoning Summary: The property is zoned Downtown Core (DC) District

Requirements	Required	Proposed
Front Yard Setback	0’ or 5’	0’
Side Yard Setback	0’	0’
Rear Yard Setback	0’	0’
Minimum Building Height	2 stories	2 story existing building
Maximum Building Height: Downtown Height Map	4 story height limit extends 30’ back from State St right-of-way line 6 stories	2 story existing building

Site Design	Required	Proposed
Number Parking Stalls	Not required: Central Area	None
Accessible Stalls	Not required	None
Loading	Not required	None
Number Bike Parking Stalls	Restaurant-nightclub: 5% of capacity of persons	None
Landscaping and Screening	Not required	None
Lighting	Not required	None
Building Forms	Not required	Existing building

Other Critical Zoning Items	Urban Design (Downtown Core District); Barrier Free (ILHR 69)
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Tables Prepared by Jenny Kirchgatter, Assistant Zoning Administrator

Related Approvals

On August 3, 2021, the Common Council, based on the recommendation of the Alcohol License Review Committee (ALRC), approved an 18+ Center for Visual & Performing Arts License (Legistar ID # [66377](#)) (as defined by MGO §38.06(12)(c)) for Chinchilla JDK LLC, doing business as Red Rock Saloon, located at 222 W Gorham Street. The Council’s approval set the permitted capacity to 400 persons and included the following conditions:

1. Establishment must meet the definition of an entertainment venue as defined by MGO Sec 38.05(9).
2. Establishment must provide full food service at all times when live musical performances are not offered.
3. No patrons are permitted to enter or re-enter the establishment after 1:30am on Friday or Saturday night.

Project Description

The applicant proposes to add a restaurant-tavern (The Red Rock Saloon) in an existing commercial building at 222 W Gorham Street. It is replacing the establishment *HopCat*, which the City's Zoning Administrator classified as a *restaurant-tavern*. Submitted materials state that the applicant is moving this establishment from 322 W Johnson Street, where they operated it since 2014, due to being forced out by the landlords who are selling both the 322 W Johnson Street property as well as those around it to be redeveloped. The applicant plans to offer live music a few times per week. They also note that there are no exterior and only minor interior modifications to the building planned as part of this proposal. The proposed hours of operation are Sunday to Thursday, 11:00 a.m. to 2:00 a.m. and Fridays and Saturdays from 11:00 a.m. to 2:30 a.m.

Their Entertainment License, obtained from the Common Council on August 3, 2021, is an *18+ Center for Visual & Performing Arts License*, which allows those 18 years and older to be able watch live music performances in a setting where alcohol is also being sold. It caps the open-to-the-public events that could be held to no more than once per week. Regarding capacity, while the license's approval was for 400 persons, the final details of the seating plan and capacity will also need to be approved by City Building Inspection.

Analysis, and Conclusion

This proposal is subject to the standards for Conditional Uses [MGO §28.183] as Table 28E-2 in MGO §28.061 lists a *restaurant-nightclub* as a conditional use in the Downtown Core (DC) District. The Supplemental Regulations [MGO §28.151] contain further regulations for this use.

Conformance with Adopted Plans

The 2018 [Comprehensive Plan](#) recommends Downtown Mixed-Use (DMU) development for the subject site. 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.*" For details on heights, mix of uses, ground floor uses, pedestrian friendly design, and other considerations which the Plan notes "must be addressed for development within this category", the Plan defers to the [Downtown Plan](#).

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In regards to plan consistency, Staff believe that the proposed use could be found to be compatible with adopted plans. Given the previous use in the space as a restaurant-tavern, Staff does not believe this request represents a significant land use change.

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.

Given due consideration, the Planning Division anticipates that if well-managed, the conversion of the existing facility into a restaurant-nightclub use should not result in significant negative impacts to the surrounding properties. As noted above, Staff do not believe this new use to be significantly different than that the previous tenant. Finally, 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 Section 28.183(9)(d).

Staff believes that the Conditional Use Standards can be found met.

Supplemental Regulations

Lastly, according to Table 28E-2 in MGO §28.072, a *restaurant-nightclub* must adhere to the Supplemental Regulations found in MGO §28.151:

- a) Maximum capacity to be established by the Director of Building Inspection Division, not to exceed the number of available seats, plus staff, plus a reasonable number of people waiting for seats.
- b) Must serve food at all hours it is open.
- c) Shall hold an entertainment license under Sec. 38.06(11)
- d) Shall at all times operate consistent with and according to the requirements of a valid alcohol license issued by the City.

With the applicant already having obtained their Entertainment License, and the conditions of approval, the Planning Division believes that all of the Supplemental Regulations can be found met.

Conclusion

Staff believes that the proposed restaurant-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.

At the time of report writing, staff was not aware of any concerns on this request.

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 allow a restaurant-nightclub in an existing commercial building in the Downtown Core (DC) District at 222 W Gorham Street. This recommendation is subject to input at the public hearing and the following conditions:

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

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

1. The restaurant-nightclub shall comply with Supplemental Regulations Sections 28.151 for a Restaurant-Nightclub. The maximum capacity will be established by the Director of the Building Inspection Division, not to exceed the number of available seats, plus staff, plus a reasonable number of people waiting for seats. Submit plans for Building Plan review to establish the capacity for the restaurant-nightclub.

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

2. Obtain and post an updated occupancy load sign from Building Inspection and obtain an assembly license from Madison Fire Dept.

The following agencies reviewed the request and recommended no conditions or approval:

Planning, Engineering Division (Main Office), Engineering Division (Mapping), Traffic Engineering, Metro Transit, Parks, Forestry, and Water Utility.