



## PLANNING DIVISION STAFF REPORT

November 21, 2022

PREPARED FOR THE PLAN COMMISSION

**Project Address:** 3010 Crossroads Drive (17<sup>th</sup> Aldermanic District, Alder Madison)

**Application Type:** Conditional Use

**Legistar File ID #** [74255](#)

**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:** Jeykell Badell; La Taguara Bar and Grill; 3010 Crossroads Drive; Madison, WI 53718

**Property Owner:** Brent Jackson; 2810 Crossroads Drive; Madison, WI 53718

**Requested Action:** Consideration of a conditional use in the CC (Commercial Center) District to convert a restaurant-tavern into a restaurant-nightclub at 3010 Crossroads Drive.

**Proposal Summary:** The applicant proposes to establish a restaurant-nightclub in a building that is currently used as a restaurant-tavern. No structural changes to the building are planned.

**Applicable Regulations & Standards:** This proposal is subject to the standards for Conditional Uses [MGO §28.183] as MGO §28.061(1) lists a *restaurant-nightclub* as a conditional use in the CC (Commercial Center) District. The Supplemental Regulations [MGO §28.151] contain further applicable regulations.

**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 convert a restaurant-tavern into a restaurant-nightclub in the CC (Commercial Center) District at 3010 Crossroads Drive. This request is subject to the input at the public hearing and the conditions recommended by the reviewing agencies.

### Background Information

**Parcel Location:** The 74,052-square-foot (1.7-acre) parcel is located to the south of the intersection of Crossroads Drive and High Crossing Boulevard. It is located within Aldermanic District 17 (Alder Madison) and the Sun Prairie School District.

**Existing Conditions and Land Use:** The parcel contains a one-story, roughly 7,375-square-foot structure which, according to City Assessor's Office records, was constructed in 2002. It was previously occupied by a Pizzeria Uno's restaurant.

#### Surrounding Land Use and Zoning:

Northeast: Across Crossroads Drive is a one-story, multi-tenant retail building in CC (Commercial Center) District;

Northwest: Across High Crossing Boulevard is a former movie theater and a Holiday Inn Express and Suites, both of which are zoned CC; and

Southeast and Southwest: A four-story, multi-tenant office building, zoned SE (Suburban Employment) District.

**Adopted Land Use Plan:** The [Comprehensive Plan](#) (2018) and [Nelson Neighborhood Development Plan](#) (2019) both recommend Employment (E) land uses for the subject site.

**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 CC (Commercial Center) District

Requirements	Required	Proposed
Front Yard Setback	0' or 5'	68'8"
Max. Front Yard Setback	85' maximum	68'8"
Side Yard Setback: Street side yard	0' or 5'	56'5"
Side Yard Setback: Other cases	One-story: 5' Two-story or higher: 6'	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: 5'	Adequate
Maximum Lot Coverage	85%	<85%
Maximum Building Height	5 stories/78'	1 story existing building

Site Design	Required	Proposed
Number Parking Stalls	No minimum required	105 existing stalls
Accessible Stalls	Yes	5
Loading	Not required	Existing loading area
Number Bike Parking Stalls	Restaurant-nightclub: 5% of capacity of persons	10 existing stalls
Landscaping and Screening	Not required	Existing landscaping
Lighting	Not required	Existing lighting
Building Forms	Not required	Existing building

<b>Other Critical Zoning Items</b>	Utility Easements; Barrier Free (ILHR 69)
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*Tables Prepared by Jenny Kirchgatter, Assistant Zoning Administrator*

## Related Approval

On September 6, 2022, the Common Council, based on the recommendation of the Alcohol License Review Committee (ALRC), approved an 21+ Entertainment License (as defined by MGO §38.06(12)(c)) for Pizza Ventures III, LLC, doing business as La Taguara Bar & Grill, located at 3010 Crossroads Drive. (Legistar ID # [72758](#)) The Council's approval set the permitted capacity at 273 persons indoors and 40 outdoors.

## Project Description, Analysis, and Conclusion

The applicant is requesting a conditional use to convert the existing business (La Taguara Bar and Grill) at 3010 Crossroads Drive, which recently opened this second location, from a restaurant-tavern to a restaurant-nightclub. Having recently obtained an Entertainment License from the ALRC (as noted above), they intend to offer live music. The hours of operation of the restaurant-nightclub will be 11:00 a.m. to 9:00 p.m., Sunday through Thursday, and 11:00 a.m. to 10:00 p.m. on Friday and Saturday. The existing restaurant-tavern has a full kitchen, and plans to continue serving food. The applicant has not indicated any intended changes to capacity or any exterior changes.

As part of the proposal, the applicant is also proposing to continue to have the outdoor eating area on the patio located on the northwest side of the building. They plan to offer amplified sound (music) out on the patio and occasionally live music. The hours of operation will match those of the restaurant. Staff note that this outdoor eating area is a permitted use given that, in the Commercial Center (CC) District, hours of operation after 9:00 p.m. and/or live/amplified sound do not trigger conditional use approval. The various supplemental regulations for this use are listed later in this report.

### **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 MGO §28.183(6) are met. Staff believes that this proposed use is compatible with the [Comprehensive Plan](#) (2018) and [Nelson Neighborhood Development Plan](#) (2019) which both recommend Employment (E) land uses for the subject site. The Comprehensive Plan does note that Employment areas "*generally do not include retail and consumer service uses for the wider community, but may include limited retail and service establishments that primarily serve employees and users of the area.*" In the end, Staff believes that this proposal is compatible with adopted plan recommendations and does not believe that it will prevent the subject site or those nearby from developing in a manner more consistent with plan recommendations in the future.

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

### **Supplemental Regulations**

Per Table 28D-2 in MGO §28.061, a *restaurant-nightclub* shall adhere to the Supplemental Regulations found in MGO §28.151:

- a) Maximum capacity to 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, as shown on the floor plan consistent with approved capacity. (Am. by [ORD-22-00033](#), 5-19-22)
- b) Must serve food at all hours it is open.
- c) Shall hold 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.

Per Table 28D-2 in MGO §28.061, an *outdoor eating area associated with a food or beverage establishment* shall adhere to the Supplemental Regulations found in MGO §28.151:

- a) Hours of operation shall end at 9:00 p.m. in all districts, except for MXC, CC and RMX, unless extended as part of the conditional use approval.
- b) No amplified sound is permitted in all districts, except MXC, CC and RMX, unless allowed as part of the conditional use approval.
- c) Enclosures shall be required, and shall be between thirty-six (36) and forty-two (42) inches in height, may be flush to the ground, and the bottom of the structure shall be no more than six (6) inches from the ground. All sides of the enclosure shall be constructed of a stable, rigid, wind-resistant, self-supporting framework, capable of maintaining all furniture and other objects within the confines of the cafe and free from any supporting structures which may cause a tripping hazard either within or outside of the cafe. Fencing may exceed forty-two (42) inches in height if approved by the Zoning Administrator or designee.

- d) Enclosures shall make sure that vertical railings or elements do not interfere with intersection sight distance, per [Sec. 27.05\(2\)\(bb\)](#).
- e) Tables, chairs, barricades, and fencing shall be safely secured on site when not in use.
- f) If alcohol is served, signs shall be displayed for patrons stating that alcohol must stay within the seating area.
- g) Additional exterior lighting required for any seating areas operating after dusk shall comply with all applicable local and state code requirements.
- h) Shall be approved by the Zoning Administrator or designee, the Traffic Engineer or designee and the City of Madison Fire Department.
- i) Permissible from April 15 to November 15.

The Planning Division believes that the proposed restaurant-tavern and outdoor eating area will meet all of the Supplemental Regulations subject to the comments and conditions from reviewing agencies.

### 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.

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 convert a restaurant-tavern into a restaurant-nightclub in the CC (Commercial Center) District at 3010 Crossroads Drive. 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) 266-4428)

1. The proposed restaurant-nightclub shall comply with supplemental regulations MGO Section 28.151 for a Restaurant-Nightclub.
2. On the floor plan, identify the location of the entertainment performance area. Work with Zoning and Building Inspection staff to establish the capacity for the proposed restaurant-nightclub. 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, as shown on the floor plan consistent with approved capacity.

3. 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.
4. 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.

**City Engineering Division – Mapping Section** (Contact Julius Smith, (608) 264-9276)

5. Update name of tenant from Pizzeria Uno to current tenant's name.

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

6. The partial fire sprinkler system shall be extended to all areas that undergo alterations now and into the future.

**Traffic Engineering Review** (Contact Sean Malloy, (608) 266-5987)

7. All bicycle parking adjacent pedestrian walkways shall have a 2 foot buffer zone to accommodate irregularly parked bicycles and/or bicycle trailers.
8. The applicant shall submit one contiguous plan showing proposed conditions and one contiguous plan showing existing conditions for approval. The plan drawings shall be to engineering scale and include the following, when applicable: existing and proposed property lines; parcel addresses; all easements; vision triangles; 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.
9. The Developer shall post a security deposit prior to the start of development. In the event that modifications need to be made to any City owned and/or maintained traffic signals, street lighting, signing, pavement marking and conduit/handholes, the Developer shall reimburse the City for all associated costs including engineering, labor and materials for both temporary and permanent installations.
10. 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.
11. All parking facility design shall conform to MGO standards, as set in section 10.08(6).

**Forestry Review** (Contact Jeffrey Heinecke, (608) 266-4890)

12. An existing inventory of street trees located within the right of way shall be included on the site, and landscape plans sets. The inventory shall include the following: location, size (diameter at 4 1/2 feet), and species of existing street trees. The inventory should also note if a street tree is proposed to be removed and the reason for removal.

13. Contractor shall take precautions during construction to not disfigure, scar, or impair the health of any street tree. Contractor shall operate equipment in a manner as to not damage the branches of the street tree(s). This may require using smaller equipment and loading and unloading materials in a designated space away from trees on the construction site. Any damage or injury to existing street trees (either above or below ground) shall be reported immediately to City Forestry at (608) 266-4816. Penalties and remediation shall be required. Add as a note on the site, grading, utility, demolition, and street tree plan set.
14. On this project, street tree protection zone fencing is required. The fencing shall be erected before the demolition, grading or construction begins. The fence shall include the entire width of terrace and, extend at least 5 feet on both sides of the outside edge of the tree trunk. Do not remove the fencing to allow for deliveries or equipment access through the tree protection zone. Add as a note on both the site and street tree plan sets.
15. Street tree pruning shall be coordinated with City Forestry at a minimum of two weeks prior to the start of construction for this project. Contact City Forestry at (608)266-4816. All pruning shall follow the American National Standards Institute (ANSI) A300 - Part 1 Standards for pruning. Add as a note on both the site and street plan sets.
16. Applicant shall work with City Forestry and Engineering during the right of way design process to address street tree and utility conflicts. Any street tree removals due to utility improvements within the right of way shall be reviewed and approved by the Board of Public Works. Any approval of Privilege in Streets Agreements shall be reviewed by City Forestry for street tree impacts.

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

*City Engineering, Parks Division, Water Utility, and Metro Transit*