

# PLANNING DIVISION STAFF REPORT

August 24, 2020

PREPARED FOR THE PLAN COMMISSION



**Project Address:** 6119 Odana Road (District 19 – Ald. Furman)

**Application Type:** Conditional Use

**Legistar File ID #** [61382](#)

**Prepared By:** Sydney Prusak, AICP, Planning Division  
Report Includes Comments from other City Agencies, as noted

**Reviewed By:** Kevin Firchow, AICP, Planning Division

## Summary

**Applicant & Contact:** Mohammed Himawi; Egy Inc.; 6119 Odana Road; Madison, WI 53719

**Property Owner:** Apex Property; 1714 Commercial Avenue; Madison, WI 53704

**Requested Action:** The applicant requests approval of a conditional use to convert an existing restaurant-tavern into a restaurant-nightclub on a property zoned Commercial Center (CC) District at 6119 Odana Road.

**Proposal Summary:** The applicant proposes to convert an existing restaurant-tavern into a restaurant-nightclub in order to have live entertainment and/or a DJ. No exterior site plan changes are proposed.

**Applicable Regulations & Standards:** This proposal is subject to the standards for Conditional Uses [MGO §28.183] as MGO §28.060 lists a *restaurant-nightclub* as a conditional use in the Commercial Center (CC) Zoning 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 establish a restaurant-nightclub on a property zoned Commercial Center (CC) District at 6119 Odana Road. This request is subject to the input at the public hearing and the conditions recommended by the reviewing agencies.

## Background Information

**Parcel Location:** The 98,445-square-foot (approximately 2.26-acre) subject site is located on the south side of Odana Road at the Research Park Boulevard intersection. It is within Aldermanic District 19 (Ald. Furman) and the Madison Metropolitan School District.

**Existing Conditions and Land Use:** The subject parcel contains three one-story multi-tenant commercial buildings. The existing restaurant-tavern is located in the western most building on the property. According to City Assessor data, the 26,106 square-foot building was constructed in 1979.

### Surrounding Land Use and Zoning:

North: University Research Park, zoned Suburban Employment (SE) District;

South: W Beltline Highway;

East: One-story commercial buildings, zoned Commercial Center (CC) District; and

West: One-story commercial buildings, zoned CC District.

**Adopted Land Use Plan:** The [Comprehensive Plan \(2018\)](#) recommends General Commercial (GC) uses for the subject site.

**Zoning Summary:** The project site is currently zoned Commercial Center (CC) District.

Requirements	Required	Proposed
Lot Area (sq. ft.)	None	Existing, no change
Lot Width	None	Existing, no change
Front Yard Setback	None	Existing, no change
Side Yard Setback	5 feet	Existing, no change
Rear Yard Setback	20 feet	Existing, no change
Maximum Lot Coverage	85%	Existing, no change
Maximum Building Height	5 stories/68 feet	Existing, no change

Site Design	Required	Proposed
Number Parking Stalls	Existing	Existing, no change
Accessible Stalls	Existing	Existing, no change
Loading	No	No
Number Bike Parking Stalls	Existing	Existing, no change
Landscaping	Existing	Existing, no change
Lighting	No	No
Building Forms	Existing	Existing, no change
<b>Other Critical Zoning Items</b>	Utility Easements	

*Table Prepared by Jacob Moskowitz, Assistant Zoning Administrator*

**Environmental Corridor Status:** The subject site is not located in a mapped environmental corridor.

**Public Utilities and Services:** This property is served by a full range of urban services.

## Project History

The applicant, Egy Inc. on behalf of The Nile Restaurant, is requesting conditional use approval to convert an existing restaurant-tavern into a restaurant-nightclub. At their June 17, 2020 meeting, the City's Alcohol License Review Committee (ALRC) voted to approve a request for a 21+ Entertainment License for the subject site with the following conditions:

1. Establishment may have a maximum of two events per week or eight events per month;
2. Establishment shall communicate with either the Captain or Lieutenant of the Madison Police Department Midtown District about events a minimum of 36 hours before the event occurs;
3. A minimum of two security staff shall be provided for events with more than 50 attendees; and
4. Licensee shall return to ALRC's regular December 2020 meeting to evaluate the conditions on the license.

According to MGO §28.211, a restaurant-night 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 §30.06." Given that an entertainment license was approved for this property, the proposed establishment is now classified as a restaurant-nightclub, which is a conditional use in the Commercial Center (CC) Zoning District.

## Project Description, Analysis, and Conclusion

The applicant proposes to convert an existing restaurant-tavern (The Nile Restaurant) into a restaurant-nightclub in order to host special events (i.e. weddings) with live entertainment and/or a DJ. The applicant also intends to have karaoke onsite, which does not require an entertainment license. The premise will continue to operate primarily as a food and beverage establishment.

According to the letter of intent, the restaurant-nightclub will close at 2:00 a.m. daily. The management plan, approved by the City's Alcohol License Review Committee (ALRC), is included in the Plan Commission materials for reference.

### 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 consistent with the [Comprehensive Plan \(2018\)](#) recommendation for General Commercial (GC) uses. Staff notes that this is an existing food and beverage establishment and the applicant is requesting approval to extend their hours of operation and have the ability to host events with live entertainment and/or a DJ. Staff also notes that the subject site is within the study area for the [Odana Area Plan](#), which is currently in the first stage of its planning and development process. However, staff advises that this current proposal be reviewed against the recommendations adopted at the time of filing, which in this case is the aforementioned [Comprehensive Plan \(2018\)](#).

Staff believes that the Conditional Use Standards can be found met and provides further discussion on Standard 3. Conditional Use Standard #3 states that, "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." The Planning Division believes that this standard can be found met. Given that the subject property has operated as a restaurant-tavern since 2011, the Planning Division does not anticipate that the expansion of operating hours and the addition of live entertainment/DJs in a controlled area will have significant impacts on surrounding properties. Staff notes that there are no residential uses near the subject site and both Odana Road and the W Beltline Highway, are highly trafficked roadways. Furthermore, the ALRC and Common Council approved the Entertainment License with the proposed hours and management plan.

### 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.

*According to the applicant there will be 106 seats, which is greater than the ALRC approved capacity of 80 people. The applicant may revise their licensed premises with the ALRC to increase their capacity.*

- 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.

The Planning Division believes that all of the Supplemental Regulations can be 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.

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

### **Recommendation**

**Planning Division Recommendation** (Contact Sydney Prusak, (608) 243-0554)

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 restaurant-nightclub on a property zoned Commercial Corridor (CC) District at 6119 Odana Road. 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 Sydney Prusak, [sprusak@cityofmadison.com](mailto:sprusak@cityofmadison.com))

1. The restaurant-nightclub shall operate in accordance with the approved Entertainment License for the property.

**Zoning** (Contact Jacob Moskowitz, (608) 266-4560)

2. 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.
3. Must serve food at all hours it is open.

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

4. The current approved capacity is 80 people. Any increase in capacity that exceeds 99 will require the installation of a fire sprinkler system.