

PLANNING DIVISION STAFF REPORT

August 24, 2020



PREPARED FOR THE PLAN COMMISSION

Project Address: 849 E Washington Avenue (District 6 – Ald. Rummel)
Application Type: Conditional Use
Legistar File ID # [61474](#)
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: Colleen Bos; Bos Meadery; 849 E Washington Avenue, 115; Madison, WI 53703

Property Owner: 849EWash LLC; 131 W Wilson, #301; Madison, WI 53703

Requested Action: The applicant requests approval of a conditional use to establish a nightclub with an outdoor eating area on property zoned Traditional Employment (TE) District at 849 E Washington Avenue.

Proposal Summary: The applicant proposes to establish a nightclub and add an outdoor eating area for an existing establishment (Bos Meadery).

Applicable Regulations & Standards: This proposal is subject to the standards for Conditional Uses [MGO §28.183] as MGO §28.082 lists *nightclubs and outdoor eating areas associated with food and beverage establishments* as conditional uses in the Traditional Employment (TE) Zoning District. The Supplemental Regulations [MGO §28.151] contain further regulations for these uses.

Review Required By: Plan Commission (PC). The Urban Design Commission (UDC) Secretary administratively reviewed this request.

Summary Recommendation: The Planning Division recommends that the Plan Commission find that the approval standards for conditional uses are met and **approve** the requests to establish a nightclub and outdoor eating area on a property zoned Traditional Employment (TE) District at 849 E Washington Avenue. These requests are subject to the input at the public hearing and the conditions recommended by the reviewing agencies.

Background Information

Parcel Location: The 43,498-square-foot (approximately 1-acre) project site is located at the southwest corner of the intersection of E Washington Avenue and S Paterson Street. The site is located within Aldermanic District 6 (Ald. Rummel), the Madison Metropolitan School District, Wellhead Protection District 24, and Urban Design District #8 (UDD 8).

Existing Conditions and Land Use: The subject parcel contains a three-story, 43,575-square-foot, multi-tenant commercial building. The applicant currently occupies a 2,500 square-foot tenant space. City Assessor records state that the building was originally constructed in 1917 and underwent a major remodel in 1991.

Surrounding Land Use and Zoning:

North: Breese Stevens Field, zoned PR (Parks and Recreation);

East: A hotel with a restaurant-tavern and an outdoor eating area, zoned TE (Traditional Employment);

South: A warehouse building and storage yard for Madison Gas & Electric, zoned TE; and
West: A 14-story mixed-use building (The Galaxie), zoned TE.

Adopted Land Use Plan: The [Comprehensive Plan \(2018\)](#) recommends employment uses for the subject property. The [Capitol Gateway Corridor Plan \(2008\)](#) recommends employment for the majority of the site, but contains a recommendation for commercial uses along the East Washington Avenue frontage.

Zoning Summary: The project site is currently zoned Traditional Employment (TE).

Requirements	Required	Proposed
Lot Area (sq. ft.)	6,000 sq. ft.	32,608 sq. ft.
Lot Width	50'	132'
Front Yard Setback	None	None
Side Yard Setback	None unless needed for access	None
Rear Yard Setback	Lesser of 20% lot depth or 20'	Adequate existing rear yard
Maximum Lot Coverage	85%	Existing lot coverage
Minimum Building Height	22' measured to building cornice	3 story existing building
Maximum Building Height	5 stories/68'	3 story existing building

Site Design	Required	Proposed
Number Parking Stalls	Existing nightclub: 15% of capacity of persons (15) Existing office; service business: 1 per 400 sq. ft. floor area (62) (77 total)	65 existing stalls (6)(7)
Accessible Stalls	Yes	Existing accessible stall (6)
Loading	Not required	Existing loading area
Number Bike Parking Stalls	Existing nightclub: 5% of capacity of persons (5)	Existing bike stalls (6)(8)
Landscaping and Screening	Not required	Existing site landscaping (9)
Lighting	Not required	Existing site lighting
Building Forms	Not required	Existing building
Other Critical Zoning Items	Urban Design (UDD #8); Barrier Free (ILHR 69); Utility Easements; Wellhead Protection District (WP-24)	

Table Prepared by Jenny Kirchgater, 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 Description, Analysis, and Conclusion

The applicant, Colleen Bos on behalf of Bos Meadery, proposes to establish a nightclub with an outdoor eating area. The nightclub is an existing tavern, but because it has an entertainment license for live music its use is now classified as nightclub per MGO §28.211. Tavern/Nightclubs are classified as a conditional use in the TE Zoning district. The applicant is also requesting conditional use approval for a new outdoor eating area. As proposed, the 300-square-foot patio will be located in front of the building along the East Washington Avenue frontage, between the sidewalk and the building. According to the submitted materials, the patio area is currently unused and filled with decorative rocks. The applicant intends to remove the rocks and construct a slightly raised patio with large

planters to separate the space from the sidewalk. The patio will have three tables, with seating for approximately 20 people. As proposed, the nightclub and outdoor eating area will have the same hours of operation as the existing meadery: 5:00 p.m. to 10:00 p.m. Sunday through Thursday and 2:00 p.m. to 10:00 p.m. on Fridays and Saturdays. No operational changes for the existing meadery are proposed with this application.

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.

The [Comprehensive Plan \(2018\)](#) recommends employment uses for the subject property. Furthermore, the [Capitol Gateway Corridor Plan \(2008\)](#) recommends employment for the majority of the site, but contains a recommendation for commercial uses along the East Washington Avenue frontage. While the proposal is not an employment use, the Planning Division acknowledges that the meadery is an existing use and occupies one tenant space in an existing multi-tenant building that contains a variety of uses. Staff also recognizes the [Capitol Gateway Corridor Plan \(2008\)](#) recommendation for commercial uses along East Washington Avenue and believes that the establishment of an outdoor seating area may help activate the space in front of the building. Again, the Planning Division notes that it is an existing use and this conditional use approval will bring the establishment into compliance with its entertainment license.

In regards to the Conditional Use Standards, 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." Staff notes that there are many outdoor eating areas associated with food and beverage establishments along E Washington Avenue. In an effort to minimize impacts, the Planning Division recommends a condition of approval prohibiting outdoor amplified sound to prevent noise spillover onto adjacent properties. Furthermore, Conditional Use Standard #4 states, "The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district." Staff notes that this is an existing use within an existing building and does not believe that the establishment of a nightclub with an outdoor eating area will impede the normal and orderly development of the East Washington Avenue corridor.

If approved, the Plan Commission retains continuing jurisdiction over the conditional uses, meaning if complaints be filed, the Plan Commission may take further action on the conditional use as allowed in MGO §28.183(9)(d). Given these considerations, the Planning Division believes that the Conditional Use Standards can be found met.

Supplemental Regulations

Lastly, according to Table 28F-2 in MGO §28.082, *nightclubs and outdoor eating areas associated with food and beverage establishments* must adhere to the Supplemental Regulations found in MGO §28.151. Staff believes the Supplemental Regulations can be found met. The Supplemental Regulations for outdoor eating areas state that, "Where the use is conditional, an appropriate transition area between the use and adjacent property may be required, using landscaping, screening, and other site improvements consistent with the character of the neighborhood." Given that the patio space will front E Washington Avenue, which is a primary arterial street, the Planning Division believes that the proposed site improvements, including the planters surrounding the patio, fulfill this supplemental requirement. The Urban Design Commission (UDC) secretary will be required to sign-off on the final patio and planting plans.

Conclusion

Staff believes that the proposed nightclub and outdoor eating area can be found to meet the Conditional Use Approval Standards and recommends that the requests 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 these requests.

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 requests to establish a nightclub and outdoor eating area on a property zoned Traditional Employment (TE) District at 849 E Washington Avenue. 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)

1. The outdoor eating area shall close at 10:00 p.m. seven days a week as stated in the application materials. The Director of the Planning Division may consider a minor alteration to the conditional use in the future to further modify the hours of operation for the outdoor eating area following a recommendation by the District Alder.
2. No outdoor amplified sound (from music, televisions, etc.) or live musical performance shall be allowed in the outdoor eating area

Engineering Division (Contact Brenda Stanley, (608) 261-9127)

3. Based on Wisconsin DNR BRRS record #03-13-561428 HUMISTON KEELING COMPANY, the property contains residual contamination. If contamination is encountered, all WDNR and DSPS regulations for proper handling and disposal of contaminated soils shall be followed.

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

4. The applicant shall provide a barrier between their site and the Right of Way to secure the Right of Way from encroachment.

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

5. The capacity shall be established for the outdoor eating area. Occupancy is established by the Building Inspection Unit. Contact Building Inspection staff at (608) 266-4559 to help facilitate this process.
6. Submit a complete site plan showing the existing parking lot with vehicle stalls and accessible stalls. Show the location of the previously approved bicycle stalls adjacent the East Washington Avenue frontage. Include a

parking lot summary for the existing parking lot with the numbers of vehicle stalls, accessible stalls and bicycle stalls.

7. Work with Zoning staff to determine the minimum vehicle parking requirement for the existing nightclub and multi-tenant building. The vehicle parking requirement for a nightclub is 15% of capacity of persons. The vehicle parking requirement for an office use or service business is one (1) parking space per 400 sq. ft. of floor area. The existing parking lot contains 65 stalls. It is likely that a vehicle parking reduction will be required. Per Section 28.141(5), parking for nonresidential uses may be reduced by one space for each space in a public parking lot or public parking structure located within 1,320 feet of the use, as measured by using the shortest pedestrian route from the nearest corner of the parking lot or structure to the main public entrance of the use served. Due to the proximity of the Capital East Parking Ramp located at 111 South Livingston Street, parking for the existing nightclub and mixed-use building may be reduced. Submit an application for a Parking Reduction to document the availability of off-site parking. Please include information regarding the proposed capacity of the existing nightclub and tenant uses and floor area for the existing tenant spaces.
8. Bicycle parking shall comply with the requirements of Sections 28.141(4)(g) and 28.141(11). Provide a minimum number of short-term bicycle parking stalls equal to five percent (5%) of capacity of persons for the nightclub. On the site plan, show the previously approved bicycle stalls located adjacent the East Washington Avenue frontage. Bicycle parking shall be located in a convenient and visible area on a paved or pervious surface located at least as close as the closest non-accessible automobile parking and within one hundred (100) feet of a principal entrance. Note: A bicycle stall is a minimum of two (2) feet by six (6) feet with a five (5) foot wide access area. Provide a detail of the proposed bike rack.
9. Show the refuse disposal area on the site plan. All developments, except single family and two family developments, shall provide a refuse disposal area. If the refuse disposal area is located outside the building, it shall be screened on four (4) sides (including a gate for access) by a solid, commercial-grade wood fence, wall, or equivalent material with a minimum height of six (6) feet and not greater than eight (8) feet. Submit a detail of the trash enclosure if provided outside the building. Note that City issued trash containers are not required to be screened.
10. 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.

Urban Design Commission (Contact Janine Glaeser, (608) 267-8740)

11. Replace stone mulch planting bed with wood mulch and add some lower plantings to existing corner planting area that will remain.
12. Consider keeping an additional planting bed with mulch next to the smaller side stair.
13. Consider a slightly sloped concrete patio instead of a raised deck.