



## Report to the Plan Commission

May 18, 2009

**Legistar I.D. # 14702**  
**408 West Gorham Street**  
**Conditional Use – Outdoor Eating Area**

Report Prepared By:  
Kevin Firchow, AICP  
Planning Division

**Requested Action:** Approval of a conditional use for outdoor eating areas for a restaurant.

**Applicable Regulations & Standards:** Outdoor eating areas are conditional uses in commercial zoning districts per Section 28.09(2)(d)6. Section 28.12 (11) provides the guidelines and regulations for the approval of conditional uses.

**Summary Recommendation:** The Planning Division recommends that the Plan Commission find the conditional use standards are met and **approve** a conditional use for the proposed outdoor eating areas subject to input at the public hearing, conditions recommended by the Planning Division, and the conditions recommended by other reviewing agencies.

### Background Information

**Applicant:** Jongyeon Lee; 408 L.G. Properties, 402 W. Gorham Street; Madison, WI 53703  
**Agent / Contact:** Melissa Destree, Destree Design Architects, 222 W. Washington Ave, Madison, WI 53703  
**Property Owner:** Same as the applicant.

**Proposal:** The applicant requests approval to operate two outdoor eating areas for a restaurant. A development schedule was not specified on the application, though the letter of intent states the restaurant is scheduled to be opened by September 2009.

**Parcel Location:** The subject site is approximately 5,016 square feet (0.12 acres) in area. It is located on the north side of Gorham Street, mid-block between Broom and Basset Streets. The site is located in Aldermanic District 4; Madison Metropolitan School District; Downtown Design Zone 1.

**Existing Conditions:** The site includes a two-story building in which substantial renovations are underway. The Zoning Administrator determined the building changes were not a demolition, and therefore, Plan Commission approval of the building changes was not required.

### Surrounding Land Use and Zoning:

North: Restaurant and Mixed Use Building, zoned C4 (Central Commercial District);

South: Multi-story Mixed Use Building (“The Equinox”), zoned PUD-SIP;

West: 80-unit Apartment Building; zoned PUD-SIP; and

East: One-story commercial building; zoned C2 (General Commercial District).

**Adopted Land Use Plan:** The Comprehensive Plan identifies this site as a portion of the “State Street” sub district of Downtown. Recommended uses include mixed-use buildings with dining and entertainment.

**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.

**Zoning Summary:** The property is zoned C2 (General Commercial District)..

Requirements	Required	Proposed
Lot Area	6,000 sq. ft.	5,016 sq. ft.
Lot width	50'	38.9' (existing)
Usable open space	N/A	N/A
Front yard	0'	0.2' (existing)
Side yards	0'	0' R / 5" L (existing)
Rear yard	30'	30.2'
Floor area ratio	3.0	Less than 1.0
Number parking stalls	N/A	N/A
Accessible stalls	None Shown	None Shown
Loading	N/A	N/A
Number bike parking stalls	2	0 (See Condition #6)
Landscaping	Yes	(See Condition #5)
Lighting	No	(See Condition #2)
<i>Prepared by: Pat Anderson, Asst. Zoning Administrator</i>		

(Recommended conditions that correspond to requirements are noted in parentheses)

### **Project Analysis, Evaluation, and Conclusion**

The applicant requests conditional use approval to create two outdoor seating areas for the “Brickhouse BBQ Restaurant” at 408 W. Gorham Street. Conditional use approval is necessary for outdoor seating areas under the parcel’s C2 (General Commercial) zoning.

The property includes a two-story building built in 1925. Substantial renovations to this building are underway. The Zoning Administrator determined the building changes were not a demolition, and therefore, Plan Commission approval of the building changes was not required. The renovation includes an addition to the rear of the structure and construction of a new third story, stepped back from the Gorham Street facade.

Two separate outdoor dining areas are proposed. The applicant notes that all outdoor eating spaces are “table and chair” seating. The first area is a stamped concrete patio, located behind the new addition at the rear of the structure. This area includes seven tables with an overall capacity of 14 people. A six-foot tall cedar fence encloses the patio along the rear of the property. Primary access to this patio is through the restaurant with a secondary gate provided along the building’s west side.

The second area is a rooftop seating area, accessed from the third floor. The seating area is located along the front of the building, in the area where the new third floor addition is stepped back from Gorham Street. Plans show there will be 10 tables with an overall capacity of 40 people. The outdoor eating area would be at least partially screened from the street by the existing parapet wall. The applicant indicates that an additional guardrail will be attached to the back of parapet and staff request that further details be provided for staff approval.

The applicant proposes that the outdoor dining would operate from 11:00 am until midnight, daily. Information provided to the ALRC (Alcohol License Review Committee) stated that 75% of sales of the operation would be from food and non-alcoholic beverages. The Common Council approved the alcohol license in December 2008 subject to the following conditions:

- There shall be no exterior amplification of music,
- The establishment will close 30 minutes before bar time,
- The will be a maximum capacity (indoors and outdoors) of 180 persons,
- The establishment must meet the definition of a restaurant, and
- Food must be available at all times.

This proposal is not in conflict with recommendations of the Comprehensive Plan. In considering the surrounding context, several apartments are located in close proximity to the site. However, staff understand the outdoor areas will be used for fixed-seating dining purposes and not as outdoor drinking patios. With the limits on hours of operation and the prohibition of exterior amplification of music, staff believe the potential negative impacts related to noise will be reduced. If approved, this and all conditional uses remain under the continuing jurisdiction of the Plan Commission. Therefore, should complaints be made or if conditions of approval are not met, this item could return to the Commission for further consideration.

The Planning Division does not object to the establishment of outdoor eating areas for this restaurant and believe that the conditional use standards can be met.

### **Recommendation and Proposed Conditions of Approval**

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Major/Non-Standard Conditions are Shaded

#### **Planning Division Recommendation** (Contact Kevin Firchow, 267-1150)

The Planning Division recommends that the Plan Commission find the conditional use standards are met and **approve** a conditional use for the proposed outdoor eating areas subject to input at the public hearing, conditions recommended by the Planning Division, and the conditions recommended by other reviewing agencies.

1. That Planning Division staff approve the guardrail details.

***The following conditions have been submitted by reviewing agencies:***

#### **City Engineering Division** (Contact Janet Dailey, 261-9688)

This agency submitted a report with no recommended conditions of approval.

**Traffic Engineering Division** (Contact John Leach, 267-8755)

This agency submitted a report with no recommended conditions of approval.

**Zoning Administrator** (Contact Pat Anderson, 266-5978)

2. Lighting is not required. However, if it is provided, it must comply with City of Madison outdoor lighting standards. (See parking lot packet). Lighting will be limited to .10 watts per square foot.
3. If you have a license to sell alcohol in an outdoor eating area, the Alcohol License Review Committee will establish conditions for operation, which involve fencing, security guards, toilet facilities, litter, etc. All businesses that sell alcohol must comply with the requirements imposed by the Alcohol License Review Committee at the time of issuance of your original application to expand or change your licensed premises to include the outdoor eating area. It is your responsibility to have the outdoor service area added to your licensed premise. Please contact the City Clerk's office for ALRC issues.
4. Signage approvals are not granted by the Plan Commission. Signage must be reviewed for compliance with Chapter 31 of the Madison General Ordinances. Signage must be approved by the Urban Design Commission and Zoning. Sign permits must be issued by the Zoning Section of the Department of Planning and Community and Economic Development prior to sign installations.
5. Provide a detailed landscape plan. Show species and sizes of landscape elements. Provide a landscape worksheet with the final plans that shows that the landscaping provided meets the point and required tree ordinances. In order to count toward required points, the landscaping shall be within 15' and 20' of the parking lot depending on the type of landscape element. (Note: The required trees do not count toward the landscape point total.)
6. Provide two (2) bike parking stalls in a safe and convenient location on an impervious surface to be shown on the final plan. NOTE: A bike-parking stall is two feet by six feet with a five-foot access area. Structures that require a user-supplied locking device shall be designed to accommodate U-shaped locking devices

**Fire Department** (Contact Scott Strassburg, 261-9843)

This agency did not submit a response to this request. Please contact the department on questions regarding compliance with applicable building and fire codes.

**Water Utility** (Contact Dennis Cawley, 261-9243)

This property is not in a Wellhead Protection District. All wells located on this property shall be abandoned if no valid well operation permit has been obtained from the Madison Water Utility. The Water Utility will not need to sign off the final plans, and not need a copy of the approved plans.

**Parks Division** (Contact Tom Maglio, 266-6518)

This agency did not submit a response to this request.

**Metro Transit** (Contact Tim Sobota, 261-4289)

This agency did not submit a response to this request.