



## Report to the Plan Commission

August 20, 2012

**Legistar I.D. #27376**  
**5692-5696 Monona Drive**  
**Conditional Use**

Report Prepared By:  
Timothy M. Parks, Planner  
Planning Division

**Requested Action:** Approval of a conditional use for an outdoor eating area for a restaurant and an accessory parking lot in R4 (General Residence District) zoning to serve the restaurant located in C1 (Limited Commercial District) zoning, all at 5692-5696 Monona Drive.

**Applicable Regulations & Standards:** Section 28.08(2)(c) first identifies accessory parking lots serving a non-residential use as a conditional use in the R1 district, which telescopes into the R4 district. Section 28.09(2)(d) identifies outdoor eating areas for restaurants as a conditional use in the C1 district. Section 28.04(3)(e) stipulates that a conditional use permit shall authorize only one specific conditional use and shall expire if that conditional use ceases for more than 6 months for any reason. 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 met and **approve** a conditional use reapproving the use of an existing parking lot in R4 zoning to serve a restaurant in C1 zoning at 5692-5696 Monona Drive and approval of an outdoor eating area for the same, all subject to input at the public hearing and the conditions from reviewing agencies beginning on page 4 of this report.

### Background Information

**Applicant:** Diego Maldiva, Islas Del Mar; 5696 Monona Drive; Madison.

**Project Contact:** Ed Kuharski, Green Design Studio; 405 Sidney Street; Madison.

**Property Owner:** JRE Properties, LLC; PO Box 44713; Madison.

**Proposal:** The applicant is requesting re-approval of a conditional use to allow the portion of an existing parking lot located in R4 residential zoning to serve his proposed restaurant located on the same lot in C1 commercial zoning, and approval of a conditional use for an outdoor eating area to be located at the front of the restaurant. The applicant wishes to proceed as soon as all regulatory approvals have been granted.

**Existing Conditions:** The site is developed with a vacant one-story former fast food restaurant and surface parking. The western two-thirds of the property is zoned C1 (Limited Commercial District), while the eastern third is zoned R4 (General Residence District).

**Parcel Location:** An approximately 0.67-acre parcel located at the northeastern corner of Monona Drive and Tompkins Drive; Aldermanic District 16 (Johnson); Madison Metropolitan School District.

### Land Use and Surrounding Zoning:

North: One-story office building in the City of Monona; single-family residences on Acacia Lane in the City of Madison, zoned R1 (Single-Family Residence District);

South: One-story office building and apartment buildings across Tompkins Drive in the City of Monona;

West: Gas station and auto repair businesses across Monona Drive in the City of Monona;

East: Two-family residence, zoned R3 (Single- and Two-Family Residence District) and single-family residences on the north side of Tompkins Drive, zoned R1.

**Adopted Land Use Plan:** The Comprehensive Plan recommends the subject site and nearby properties in the City of Madison for Low-Density Residential uses.

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

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

**Zoning Summary:** Existing R4 (General Residence District) and C1 (Limited Commercial District) zoning:

Requirements	Required	Proposed
Lot Area	6,000 sq. ft.	29,301 sq. ft. existing
Lot Width	50'	Adequate, existing
Front Yard	25' for R4-zoned portion of lot	To be determined (see #14, pg. 5)
Side Yards	0'	Adequate
Rear Yard	10' for C1-zoned portion of lot	Adequate
Floor Area Ratio	3.0 maximum	Existing
No. of Parking Stalls	30% of restaurant capacity	41
Accessible Stalls	2	1 (see #19a, pg. 6)
Loading	N/A	--
No. Bike Parking Stalls	4	4
Other Critical Zoning Items		
Yes:	Utility Easements, Barrier Free	
No:	Floodplain, Urban Design, Wellhead Protection; Landmarks; Adjacent to Park	
Prepared by: Pat Anderson, Asst. Zoning Administrator		

## **Project Review, Analysis & Conclusion**

The applicant is requesting approval of a conditional use to establish an outdoor eating area for a restaurant and re-approval of a conditional use for an accessory parking lot located in the R4 General Residence District, which serves the existing restaurant building located in the C1 Limited Commercial District on the same lot. The split-zoned property is a 0.67-acre parcel located at the northeastern corner of Monona Drive and Tompkins Drive. The western two-thirds of the property is zoned C1, while the eastern third of the site is zoned R4.

The one-story, 2,300 square-foot restaurant was originally constructed in 1969 as a Burger King and includes a drive-up service window along the eastern wall of the building. The building sits in the center of the site and is surrounded on all four sides by surface parking accessed by one driveway from each abutting street. The commercial property sits below the grade of the adjacent properties to the north and east. A concrete retaining wall extends along the northern and eastern property lines, which includes a 4 foot tall chain-link fence with white plastic slats along the top of the wall and a landscaped

area at the base. During a visit to the site, staff observed a number of the fence slats missing or in disrepair. The base of the northern wall is planted with a row of arborvitae. A large concrete block trash enclosure is located along the southern edge of the R4-zoned portion of the property approximately 25 feet from the Tompkins Drive right of way as required by R4 district yard requirements. The opening for the enclosure faces to the north into the parking lot. A large canopy tree is located between the trash enclosure and driveway into the site from Tompkins Drive.

The subject site is surrounded on three sides by properties located in the City of Monona, including a one-story office building located to the north at 5690 Monona Drive, which shares access with this property. Other nearby land uses include an office building and apartments on the south side of Tompkins Drive and auto-related businesses on the west side of Monona Drive in Monona, and single-family residences and a duplex to the east along Tompkins Drive and Acacia Lane in Madison.

The proposed outdoor eating area will be located between the western wall of the restaurant and Monona Drive on either side of a walkway that will extend into the site between the public sidewalk and front entrance. The letter of intent indicates that six tables will be provided in the outdoor eating area, though the total number of seats is not specified. Hours for the outdoor area will be 10:00 a.m. to 6:00 p.m.; the restaurant will operate from 10:00 a.m. to 10:00 p.m. Sunday through Thursday, and from 10:00 AM until midnight on Friday and Saturday. The letter of intent states that there will be "no music or any other kind of entertainment" in the outdoor eating area. Planning staff believes that the outdoor eating area, which will be located on the side of the building furthest from the nearby residential uses, can meet the standards for approval for conditional uses with the self-imposed conditions proposed by the applicant.

The second request before the Plan Commission is the re-approval of the conditional use to allow the eastern portion of the existing parking lot zoned R4 to be used by the restaurant. The residentially zoned portion of the parking lot contains 18 of the 41 total parking stalls proposed to serve the restaurant. Section 28.08(2)(c) of the Zoning Code allows automobile parking lots accessory to a non-residential use and solely for the use of employees and patrons of the non-residential principal use as a conditional use in the R1 through R5 residential zoning districts. The conditional use accessory parking lots may only be used for the parking of passenger automobiles between the hours of 10:00 p.m. and 7:00 a.m. except as otherwise authorized through the conditional use approval. The parking lot must be located on a zoning lot that either abuts a commercial or manufacturing district, or is on the lot the principal non-residential use is located, or is located directly across a street from a commercial or manufacturing district provided that adequate pedestrian accommodations are provided. Further, each driveway for the accessory parking lot must generally be at least 20 feet distant from any adjacent property located in a residential zoning district.

Section 28.04(3)(e) stipulates that a conditional use permit shall authorize only one specific conditional use and shall expire if that conditional use ceases for more than 6 months for any reason. Because the restaurant and accessory on-site accessory parking lot have been inactive for greater than six months, approval of a new conditional use permit is required before the applicant can use the residentially zoned portion of the parking lot. Staff believes that the conditional use standards and the conditions for accessory parking lots in residential districts outlined in the preceding paragraph can be met with the existing parking lot, including the existing driveway from Tompkins Drive, which is located approximately 80 feet west of the first adjacent residential property. Staff believes that the Plan Commission may re-approve the parking lot with hours different than the 10:00 p.m. and 7:00 a.m. specified in the Zoning Code and recommends that the hours of operation for the parking be commensurate with the hours of operation for the restaurant, though staff recommends that signage be installed that encourages patrons to park on the western portion of the site after 10:00 p.m. in an effort to limit impacts from the conditional use on the residential uses located to the north, south and east.

## **Staff Recommendations, Conditions of Approval & General Ordinance Requirements**

Major/Non-Standard Conditions are shaded

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### **Planning Division Recommendation** (Contact Timothy M. Parks, 261-9632)

The Planning Division recommends that the Plan Commission find the conditional use standards met and **approve** a conditional use reapproving the use of an existing parking lot in R4 zoning to serve a restaurant in C1 zoning at 5692-5696 Monona Drive and approval of an outdoor eating area for the same, all subject to input at the public hearing, the following Planning Division conditions, and the conditions from reviewing agencies:

1. That Sheet S1 be revised per Planning Division approval as follows:
  - 1a. show the dimensions of the parking area, including all of the drive aisles, driveways, parking stalls and yards/ setbacks;
  - 1b. provide a detail of the outdoor eating area showing the number of tables and seats proposed and any enclosure that will be used to separate the area from the walkway and parking areas.
2. The hours of operation for the outdoor eating area shall be limited to 10:00 a.m. to 6:00 p.m. Monday-Sunday as stated in the letter of intent. The hours of operation for the outdoor eating area may be modified through the approval of an alteration to this conditional use by the Director of the Planning Division following a recommendation by the district alderperson.
3. That the hours of operation for the R4-zoned portion of the parking lot coincide with the hours of operation for the restaurant and non-residentially zoned parking on the site, but that the applicant install permanent signage both inside and outside the restaurant that encourages patrons of the business to park closer to Monona Drive after 10:00 p.m. seven days a week. A detail of such signs and their exterior locations on the site shall be included on the final plans approved by the Planning Division prior to final approval of the site plan and the issuance of any permits for the restaurant.
4. That a six- to eight-foot tall suitable solid fence/ screen be provided along the northern and eastern property lines adjacent to the residential properties. The final details of the fence shall be approved by the Planning Division prior to final approval of the site plan and the issuance of any permits for the restaurant.
5. That outdoor amplified sound, including from televisions, is prohibited.
6. That all trash/ refuse, recycling and material storage for the restaurant be located entirely within the trash enclosure (a grease container was observed outside of enclosure during a recent visit to the site).
7. That a landscaping plan be approved by the Planning Division prior to final approval of the site plan and the issuance of any permits for the restaurant. The landscaping plan shall identify existing and proposed landscaping and provide the planting size and species of any new landscaping to be installed.

The following conditions have been submitted by reviewing agencies:

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

8. The final site plan shall be revised to correctly identify the new Monona Drive right of way line following the recent land acquisition from this property for the Monona Drive street reconstruction project. Register of Deeds Document No. 4537870 is the appropriate acquisition document for this property that shall be used to generate the proper property boundary and street right of way lines.

**Traffic Engineering Division** (Contact Dan McCormick, 267-1969)

9. Any shared access or cross access easements need to be provided prior to approval.
10. The site plans need to show parking lot and stall dimensions to ensure the design is adequate.
11. When the applicant submits final plans of one contiguous plan for approval, the applicant shall show the following: items in the terrace as existing (e.g., signs and street light poles), type of surfaces, existing property lines, addresses, showing all easements, all pavement markings, building placement, and stalls, signage, percent of slope, vehicle routes, dimensions of radii, aisles, driveways, stalls including the 2 feet overhang, and a scaled drawing at 1" = 20'.
12. The developer shall post a deposit and reimburse the City for all costs associated with any modifications to traffic signals, street lighting, signing and pavement marking, and conduit and handholes, including labor, engineering and materials for both temporary and permanent installations.
13. Public signing and marking related to the development may be required by the City Traffic Engineer for which the developer shall be financially responsible.

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

14. The parking lot, shown as "existing" on the submitted plans, does not match the historic approval site plan for the property. Specifically, the R4-zoned portion of the property shows a refuse enclosure/parking area built into the setback, where a 25-foot front yard setback from the front (Tompkins Drive) lot line is required. The site must be modified to provide the required setback or a variance must be obtained from the Madison Zoning Board of appeals to provide a lesser setback than required.
15. Pursuant to MGO Section 28.04(12)(c), where sites share a zoning district boundary with residential development, this development must provided effective 6' – 8' high screening along the lot line of this commercial district adjoining a residential zoning district. As this is a conditional use, the Plan Commission may modify this requirement.
16. Bike parking shall comply with MGO Section 28.11. Provide 4 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 2 feet by 6 feet with a 5-foot access area. Structures that require a user-supplied locking device shall be designed to accommodate U-shaped locking devices.
17. Lighting is required and shall be in accordance with MGO Section 10.085.

18. Parking lot plans with greater than 20 stalls shall comply with MGO Section 28.04(12). Landscape plans must be stamped by a registered landscape architect. Provided a landscape worksheet with 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). Planting islands shall consist of at least 75% vegetative cover, including trees, shrubs, ground cover, and/or grass. Up to 25% of the island surface may be brick pavers, mulch, or other non-vegetative cover. All plant materials in islands shall be protected from vehicles by concrete curbs.
19. Parking requirements for persons with disabilities must comply with MGO Section 28.11(3)(6)(m), which includes all applicable State accessibility requirements, including but not limited to:
  - a.) Provide a minimum of 2 accessible stalls striped per State requirements. A minimum of 1 of the stalls shall be a van-accessible stall 8 feet wide with an 8-foot striped area adjacent.
  - b.) Show signage at the head of the stalls. Accessible signs shall be a minimum of 60" between the bottom of the sign and the ground.
  - c.) Show the accessible path from the stalls to the building. The stalls shall be as near the accessible entrance as possible. Show ramps, curbs, or wheel stops where required.
20. Meet applicable building and fire codes. The outdoor capacity shall be established. Occupancy is established by the Building Inspection Division. Contact Mike VanErem at 266-4559 to facilitate this process.
21. Signage approvals are not granted by the Plan Commission. Signage must be reviewed for compliance with MGO Chapter 31, Sign Control Code prior to sign installations.

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

22. The Madison Fire Department does not object to this proposal provided the project complies with all applicable fire codes and ordinances. Note: Alterations to the building or changes in occupancy could trigger additional requirements

**Parks Division** (Contact Tom Maglio, 266-4711)

This agency did not submit comments for this request.

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

This agency submitted a response with no conditions of approval for this request.

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

This agency did not submit comments for this request.

**Police Department** (Contact Frank Chandler, 266-4238)

This agency did not submit comments for this request.