

**PLANNING DIVISION REPORT  
DEPARTMENT OF PLANNING AND COMMUNITY  
AND ECONOMIC DEVELOPMENT  
Of May 14, 2008**

**RE: LD. # 10405, Conditional Use Application – 240 W. Gilman Street**

1. Requested Action: Approval of a major amendment to an approved conditional use to allow alcohol sales in an approved outdoor eating area.
2. Applicable Regulations: Section 28.12 (11) provides the guidelines and regulations for the approval of conditional uses.
3. Report Prepared By: Kevin Firchow, AICP, Planner

**GENERAL INFORMATION**

1. Applicant: Jongyeon Lee; Samba LLC; 402 W. Gorham Street; Madison.  
  
Project Contact: Melissa Destree; Destree Design Architects; 222 W. Washington Avenue; Madison.
2. Development Schedule: The applicant wishes to begin serving alcoholic beverages as soon as all necessary approvals have been granted.
3. Location: An approximately 17,424 square foot parcel located on the north side of W. Gilman Street, approximately 100 feet from State Street; Aldermanic District 8; Madison Metropolitan School District.
4. Existing Conditions: The building includes a restaurant with outdoor eating area.
5. The property is zoned C2 (General Commercial District).
6. Proposed Land Use: In approving the outdoor eating area in August 2007, the Plan Commission added a condition that if alcohol were to be served in the outdoor seating area, that this be approved by the Plan Commission. The applicant has since obtained approval to extend alcohol sales into the outdoor eating area by the Alcohol License Review Committee.
7. Surrounding Land Use and Zoning:  
North: (233-237 Langdon Street) Fraternity houses, zoned C4 (Central Commercial District).  
  
South: (229-235 W. Gilman) Lisa Link Peace Park

East: (220 W. Gilman) Apartments, zoned PUD-SIP

West: (244 W. Gilman) 26-unit apartment, zoned PUD-SIP

8. Adopted Land Use Plan: The Comprehensive Plan identifies the subject site and the other nearby properties as part of the "Downtown-State Street District." Recommended land uses include "mixed-use buildings with a combination of retail, dining, entertainment, office, or service uses on the ground floor".
9. Environmental Corridor Status: The subject site is not located in a mapped environmental corridor.
10. Public Utilities & Services: The property is served by a full range of urban services.

#### **STANDARDS FOR REVIEW**

This application is subject to the conditional use standards of Section 28.12 (11).

#### **ANALYSIS, EVALUATION & CONCLUSION**

The applicant is requesting approval of a major alteration to an existing conditional use for the outdoor eating area for Samba Restaurant at 240 W. Gilman Street. The Plan Commission previously granted approval of the outdoor eating area at its August 20, 2007 meeting with the following conditions:

1. That no outdoor amplified sound be permitted in the outdoor seating area.
2. That the hours of operation be limited to 11AM to Midnight, daily.
3. That the City Zoning Administrator and Urban Design Commission approve the signage package.
4. That the Planning Division staff approve a detailed landscaping plan submitted by the applicant.
5. That, if the ALRC (Alcohol License Review Committee) amends the applicant's liquor license to allow alcohol service on the outdoor seating area, the Plan Commission will need to approve an amended conditional use permit specifically allowing such service. This shall occur prior to alcohol service being allowed in the outdoor seating area.

On October 3, 2007, staff found that the applicant complied with the first four conditions as part of an administrative review conducted prior to the issuance of permits to use the patio. Subsequently on January 28, 2008, the applicant petitioned the Alcohol License Review

Committee to amend her liquor license for the restaurant to include the outdoor seating area. The ALRC recommended approval of a change of licensed premises to the Common Council on March 19, 2008. The Council approved the license change on April 8, 2008 subject to the following conditions, as recommended by the ALRC:

1. Licensee will train all staff regarding these conditions.
2. Licensee and all current and future staff will make arrangements to attend Madison Police Department Tavern Training.
3. Establishment will install and maintain fencing and shrubbery around the patio area sufficient to reduce patio noise and conceal the patio area from neighboring properties. Fencing and shrubbery will not obstruct the view from Gilman Street.
4. In accordance with Section 38.02 of the Madison General Ordinances, the patio area must meet the definition of a restaurant, as determined separately from the adjoining indoor establishment.
5. Patio area has a maximum capacity of 42 people at all times.
6. After 11:00 p.m., no new patrons will be seated in the patio area on Friday and Saturday. After 10:00 p.m., no new patrons will be seated in the patio area Sunday thru Thursday.
7. Upon request, the licensee will meet with neighbors prior to opening of the patio area each year.
8. There will be no amplified music or amplified noise of any kind in the patio area.
9. There will be no sales or service of alcohol in the parking lot.
10. Establishment must notify [the adjacent] Wisconsin Lutheran Chapel in writing at least two weeks in advance of any request to change the license premise.

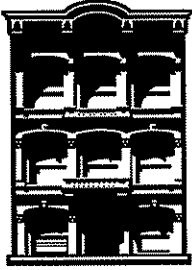
The Planning Division believes that the conditional use standards can be met with the proposed alteration to allow alcohol sales in the outdoor eating area. Staff believes that the conditions of approval placed on the change of licensed premises approval granted by the ALRC and Common Council for the eating area are rather comprehensive and should address any future concerns about the operation and use of the space.

### **RECOMMENDATION**

The Planning Division recommends that the Plan Commission find the conditional use standards are met and **approve** the amended conditional use to allow alcohol service in the outdoor seating area for a restaurant located at 240 W. Gilman Street, subject to input at the public hearing, the conditions from the original conditional use for the outdoor eating area, and the following:

1. Comments from reviewing agencies

2. That the Planning Division staff approve the fencing and shrubbery around the patio area as recommended by the ALRC (described in ALRC condition 3, above).
3. That the patio area has a maximum capacity of 42 people at all times.
4. That after 11:00 p.m., no new patrons will be seated in the patio area on Friday and Saturday. After 10:00 p.m., no new patrons will be seated in the patio area Sunday thru Thursday.
5. That upon request, the licensee will meet with neighbors prior to opening of the patio area each year.



## CENTRAL PROPERTIES

513 North Lake Street  
Madison, WI 53703  
Telephone: 608-255-1767

March 10, 2008

TO: City of Madison Plan Commission  
FROM: 233 Langdon Street Group, LLC  
RE: Brazilian Steak House on W. Gilman St.; Mrs. Lee

We noticed in watching your last meeting on television that there appears to be an issue regarding outdoor seating in the steak house facility. We are the immediate neighbor to the rear of the restaurant, at 233 Langdon Street. We have not received any notice of this request from the applicant, either in writing or by telephone or e-mail.

Our concern is that any outdoor activity does not disturb our residential tenants in our building. We would appreciate any approval of an outdoor license to include language allowing you to re-visit the matter in the event of neighbor noise or other complaints related to outdoor usage.

Please address any questions to Attorney Scott Herrick, 18 N. Carroll St., Room 500, Tel # 2571369. Attorney Herrick would have been at your meeting this evening but is out of the city on business. Thank you.

Cc: Attorney Scott Herrick

