



PREPARED FOR THE PLAN COMMISSION

Project Address: 521 N Sherman Avenue
Application Type: Conditional Use
Legistar File ID # [66552](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted.

Summary

Applicant: Christopher Guglielmo, It’s Good For You, LLC; 413 New Castle Way; Madison.
Property Owners: Sally Kaye Pofahl & Amy J. Gentz; 521 N Sherman Avenue; Madison.

Requested Action: Consideration of a conditional use in the Commercial Corridor-Transitional (CC-T) District for an outdoor cooking operation located within 200 feet from the property line of a lot with a residential use; and consideration of a conditional use in the CC-T District for outdoor eating areas for a restaurant-tavern, to allow an existing commercial building at 521 N Sherman Avenue to be converted into a restaurant-tavern with an outdoor oven and two outdoor eating areas.

Proposal Summary: The applicant is requesting approval of conditional uses to convert a one-story, 1,031 square-foot commercial building at 521 N Sherman Avenue into a pizzeria (restaurant-tavern) that will include outdoor eating areas in the front and rear yards of the business. According to the application materials, the pizzas may be prepared in a mobile wood-fired oven, which would be located in a partially enclosed area adjacent to the eastern, rear wall of the building. The exterior location of the pizza oven is considered an outdoor cooking operation. No timeline for the issuance of any required permits, completion of the work described, or occupancy is provided in the application materials.

Applicable Regulations & Standards: Table 28D-2 in Section 28.061(1) of the Zoning Code identifies outdoor eating areas for restaurants and taverns and outdoor cooking operations located within 200 feet of a property line of a lot with a residential use as conditional uses in the CC-T (Commercial Corridor–Transitional) zoning district. An Outdoor Cooking Operation is defined as the “outdoor preparation of food, including by grilling or smoking, as an accessory use of a restaurant, grocery store, catering business, or other use that prepares food for consumption by the public.” Section 28.183 provides the process and standards for the approval of conditional use permits.

Review Required By: Plan Commission

Summary Recommendation: The Planning Division recommends that the Plan Commission find the standards met and **approve** conditional uses for outdoor eating areas and an outdoor cooking operation for a restaurant-tavern located at 521 N Sherman Avenue subject to input at the public hearing and the conditions from reviewing agencies beginning on page 4 of this report.

Background Information

Parcel Location: An approximately 5,940 square-foot (0.14-acre) parcel located on the east side of N Sherman Avenue, about 100 feet south of Commercial Avenue; Aldermanic District 12 (Abbas); Madison Metropolitan School District.

Existing Conditions and Land Use: The property is developed with a one-story commercial building, zoned CC-T (Commercial Corridor–Transitional District). Parking for the subject site is located north of the building and is shared with the one- and two-story mixed-use building located to the north at 527 N Sherman Avenue, which is accessed by driveways from N Sherman and Commercial Avenues.

Surrounding Land Uses and Zoning:

North: Lost Lake Tattoo and apartments in the City of Madison, zoned CC-T (Commercial Corridor–Transitional District); multi-tenant commercial center (Bear & Bottle, etc.) across Commercial Avenue in the Village of Maple Bluff.

South: Single-family and three-family residences along the east side of N Sherman Avenue, zoned TR-C4 (Traditional Residential–Consistent 4 District);

West: Single-family and multi-family residences and two-story commercial building across N Sherman Avenue in the Village of Maple Bluff;

East: Chi World & Health and apartments and two-family residences along Commercial Avenue, zoned CC-T; single- and two-family residences along Superior Street, zoned TR-C4.

Adopted Land Use Plan: The 2018 Comprehensive Plan recommends the subject site and neighboring properties to the east for Neighborhood Mixed-Use (NMU), while properties to the south are recommended for Low Residential (LR).

The site is also located in the boundaries of the 2016 Emerson East-Eken Park-Yahara Neighborhood Plan. However, that plan does not make any specific recommendations that would be relevant to the consideration of this request.

Zoning Summary: The site is zoned CC-T (Commercial Corridor–Transitional District):

Requirements	Required	Proposed
Front Yard	5'	Existing front yard
Side Yards	5'	Existing side yard
Rear Yard	20'	Existing rear yard
Maximum Lot Coverage	85%	(See conditions)
Maximum Building Height	5 stories/ 78'	Existing; no change proposed
Auto Parking (Restaurant-tavern)	15% of capacity (11)	13
Accessible Parking	1	1
Bike Parking (Restaurant-tavern)	5% of capacity (4 total)	(See conditions)
Loading	None	0
Building Forms	Free-standing Commercial Building	Existing; no change proposed
Other Critical Zoning Items		
Yes:	Utility Easements	
No:	Urban Design, Floodplain, Wetlands, Wellhead Protection, Adjacent to Park, Barrier Free, Landmarks	
<i>Prepared by: Jacob Moskowitz, Assistant Zoning Administrator</i>		

Environmental Corridor Status: The property is not located in a mapped environmental corridor.

Public Utilities and Services: The site is served by a full range of urban services, including Metro Transit, which operates daily service along N Sherman Avenue adjacent to this site.

Supplemental Regulations

Section 28.151 of the Zoning Code includes the following supplemental regulations for Outdoor Eating Areas:

- (a) Primary access to the area shall be from within the establishment.
- (b) Hours of operation may be restricted and noise and lighting limits imposed as part of the conditional use approval.
- (c) 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.

Project Description

The applicant is seeking approval of conditional uses related to the conversion of a one-story, 1,031 square-foot commercial building located at 521 N Sherman Avenue into a pizzeria, which is classified as a restaurant-tavern. The building has most recently been used as a salon.

According to the letter of intent, the applicant will convert the rear half of the building into a commercial kitchen for food preparation for both on-site and off-site consumption. Pizzas served on the subject site may be prepared in a portable oven, which would be parked in an enclosure located adjacent to the eastern, rear wall of the building. The exterior location of the pizza oven is considered an outdoor cooking operation according to the Zoning Code. The remainder of the building will be converted into indoor seating and restrooms for the restaurant-tavern as shown on the attached plans.

Plans for the project show two outdoor eating areas to be located in the front and rear yards of the restaurant-tavern. The front area will include seating for twelve at three tables to be located on an existing patio adjacent to the main entrance to the building. The rear area will include seating for 42 persons at eleven tables to be located in an enclosed area that will occupy space currently used for parking; details of the rear eating area enclosure were not included in the materials submitted for conditional use approval. A 270 square-foot storage shed is also proposed at the southeastern corner of the subject property.

Automobile parking for the proposed restaurant-tavern will be provided in 14 shared stalls primarily located at the rear of the adjacent two-story mixed-use building at 527 N Sherman Avenue, which includes a first floor tattoo parlor and second floor apartment. Access to the shared parking is provided by driveways from N Sherman Avenue and Commercial Avenue. No bike parking is specifically identified on the proposed plans.

The letter of intent indicates that the pizzeria will operate four or five nights a week from 5:00-9:00 p.m.; different hours are not indicated for the outdoor eating areas or pizza oven.

Analysis and Conclusion

Restaurant-taverns are permitted uses in the CC-T zoning district. However, outdoor eating areas for food and beverage establishments and outdoor cooking operations within 200 feet of a property with a residential use are conditional uses requiring Plan Commission approval.

In reviewing the conditional use for the outdoor eating areas and outdoor cooking operation, the Planning Division has no information to suggest that the outdoor dining or pizza oven for the pizzeria will negatively impact the uses, values, or enjoyment or the normal and orderly development and improvement of surrounding properties and believes that the Plan Commission can find that the conditional use standards and supplemental regulations met subject to the conditions in the 'Recommendation' section that follows. Those conditions include a limit on the hours of operation for the outdoor elements to those indicated in the letter of intent, a prohibition on outdoor amplified sound, and the installation of screening along the property line shared with the single-family residence to the south consistent with the screening requirements in the Zoning Code.

No alder, public, or neighborhood association comments have been received as of the writing of this report that would suggest that the Plan Commission could not approve the request as submitted subject to the proposed conditions. As with any conditional use, the Plan Commission retains continuing jurisdiction in the event that complaints are received about any of the conditional uses associated with the subject site, which could result in more restrictive conditions being applied if deemed necessary following an investigation and public hearing.

Recommendation

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

The Planning Division recommends that the Plan Commission find the standards met and **approve** conditional uses for outdoor eating areas and an outdoor cooking operation for a restaurant-tavern located at 521 N Sherman Avenue subject to input at the public hearing and the following conditions:

Recommended Conditions of Approval: Major/Non-Standard Conditions are Shaded

Planning Division

1. That the hours of operation for the outdoor eating areas shall be until 9:00 p.m. daily, after which time the outdoor eating areas shall be closed, with no service or seating in either area after 9:00 p.m. Patrons may not utilize the outdoor areas after 9:00 p.m. for smoking or otherwise. In the future, the Director of the Planning Division may consider a minor alteration to the conditional use to further modify the hours of operation for the outdoor eating areas following a recommendation by the district alder.
2. That any doors to the outdoor areas remain closed [not be propped open] at all times.
3. Outdoor amplified sound, including from televisions, ambient music, or musical performance, is prohibited in the outdoor eating areas.
4. Screening shall be provided along rear and side property boundaries between commercial/ mixed-use districts and residential districts. In this case, screening is required along the southern side property line adjacent to the TR-C4-zoned parcels to the south. Screening shall consist of a solid wall, solid fence, or hedge with year-round foliage, between six (6) and eight (8) feet in height.

5. Details of the patio enclosures shall be provided to the Planning Division for final approval prior to occupancy of the outdoor eating areas, including the materials to be used.
6. The applicant shall provide the hours during which the outdoor oven will operate and provide details of the oven and its enclosure prior to final approval and issuance of permits for the project or use of the oven for food production.
7. The capacity shall be established for the outdoor eating area. Occupancy is established by the Building Inspection Division. Contact Building Inspection staff at 266-4559 to help facilitate this process.
8. The applicant shall provide a legible, fully labeled and dimensioned site plan that includes the number of tables and chairs in each area, the location and dimensions of any trash enclosure, and the number of auto and bike parking stalls to serve the business. Once the capacities have been set for the outdoor dining areas, those capacities shall be noted on the final plans. Details of the trash enclosure shall be provided for final approval.
9. The final site plan shall be revised to provide the lot coverage proposed; per the CC-T district, lot coverage shall not exceed 85%.

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

This agency reviewed this request and has recommended no conditions or approval.

City Engineering Division—Mapping Section (Contact Jeff Quamme, 266-4097)

10. Add text to the Shared Access Drive that it is subject to Document No 3192538.
11. Record the purchase deed that transfers ownership to the applicant.
12. Identify on the plans the lot and block numbers of recorded Certified Survey Map(s) or Plat(s).
13. Provide a full and complete legal description of the site or property being subjected to this application on the site plan.

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

14. Secure parking facility. This is usually done with continuous six (6) inch curb, timbers, pre-formed wheel stops, guardrail erected at a height of eighteen (18) inches, or fencing of sufficient strength to act as a vehicle bumper.
15. All parking facility design shall conform to the standards in MGO Section 10.08(6).

Zoning Administrator (Contact Jacob Moskowitz, 266-4450)

16. Bicycle parking for the project shall comply with the requirements of Sections 28.141(4)(g) and 28.141(11). Provide a minimum of 4 short-term bicycle parking stalls located in a convenient and visible area on a paved or impervious surface. Bicycle parking shall be located at least as close as the closest non-accessible automobile parking and within 100 feet of a principal entrance. Note: A bicycle stall is a minimum two (2) feet by six (6) feet with a five (5)-foot wide access area. Provide a detail of the proposed bike rack.

17. Lighting is not required. However, if it is provided, it shall comply with MGO Section 10.085, outdoor lighting standards.

Fire Department (Contact Bill Sullivan, 261-9658)

This agency reviewed this request and has recommended no conditions of approval.

Water Utility (Contact Jeff Belshaw, 261-9835)

This agency reviewed this request and has recommended no conditions of approval.

Parks Division (Contact Kathleen Kane, 261-9671)

This agency reviewed this request and has recommended no conditions of approval.

Forestry Section (Contact Bradley Hofmann, 267-4908)

This agency reviewed this request and has recommended no conditions of approval.

Metro Transit (Contact Tim Sobota, 261-4289)

This agency reviewed this request and has recommended no conditions of approval.