

TO: Village of East Troy Plan Commission
CC: Eileen Suhm, Jason Equitz, Tim Lynch
FROM: Orrin Sumwalt, Planning Consultant
RPT DATE: June 4, 2026
MTG DATE: June 8, 2026
FOTH FILE: 26E020.01/13
RE: LD's BBQ –
Conditional Use Permit (CUP) Amendment

BACKGROUND:

1. Petitioner: Leon Davis (The BBQ Pit, LLC)
2. Agent: Brad Jones (LD's BBQ, LLC)
3. Property Owner: The BBQ Pit, LLC
4. Location/Address: 2511 Main Street
5. Tax Key Number: RA501100001
6. Area: 2.58 AC
7. Existing Zoning: HB Highway Business District
8. Proposed Zoning: N/A
9. Future Land Use: General Commercial

OVERVIEW:

The Petitioner is requesting approval of a conditional use amendment for an "outdoor commercial entertainment" use to increase the number of special events allowed and to amend the indoor and outdoor sale and consumption of alcohol on the LD's BBQ property located at 2511 Main Street. The petitioner is subsequently requesting a site plan amendment to include the use of a tent in the parking lot for shade at outdoor events in lieu of the previously approved pavilion.

The previous approval (third amendment) for the outdoor commercial entertainment use was limited to a maximum of 15 events per year. The petitioner is requesting to increase the maximum number of events to 19 per year. The previous approval (second amendment) was limited to the sale of alcohol as part of the restaurant operation. This was limited to the indoor sale and consumption of prepackaged alcohol, except for outdoor events. The petitioner is requesting approval for the indoor sale of alcohol to include mixed drinks (e.g., bloody marys) and the outdoor sale and consumption of alcohol as part of the restaurant operation, which would be limited to the outdoor patio. Furthermore, the petitioner has provided more details regarding the outdoor sale of alcohol during outdoor events such as the portion of the property where the outdoor sale and consumption of alcohol would be limited to and a proposed portable outdoor bar, which replaces the previously used beverage cart. The site is Lot 1 of CSM No. 5011 and is approximately 2.58 acres.

PLANNER COMMENTS:

1. **Comprehensive Plan.** Future Land Use is General Commercial, which is consistent with the existing zoning of HB Highway Business District.

2. **Zoning District Requirements.** The property is zoned HB Highway Business District in which Restaurants and outdoor commercial entertainment are conditional uses per Sections 510-29 B. and the Table of Land Uses of the Village Zoning Code. Below is a description of this land use and the associated regulations from Section 510-42 M. of the Village Zoning Ordinance.

Use description. The zoning code describes Indoor Commercial Entertainment and Outdoor commercial Entertainment as follows:

Indoor commercial entertainment. Indoor commercial entertainment land uses include all land uses which provide entertainment services entirely within an enclosed building. Such activities often have operating hours that extend significantly later than most other commercial land uses. Examples of such land uses include restaurants, taverns, theaters, bowling alleys, arcades, roller rinks, pool halls, and fitness studios and instructional studios (e.g., dance, art, and martial arts) where the occupancy load is more than 25 people. Indoor commercial entertainment land uses shall adhere to the following listed regulations:

Development standards. The zoning code establishes specific standards for this use as follows:

- (1) If located on the same side of the building as abutting residentially zoned property, no customer entrance of any kind shall be permitted within 150 feet, or as far as possible, of a residentially zoned property.
- (2) Facility shall be surrounded by a bufferyard with a minimum opacity of 0.60 along all property borders abutting residentially zoned property (see Article XIV).
- (3) Minimum required parking: one space per every three patron seats or lockers (whichever is greater) or one space per three persons at the maximum capacity of the establishment (whichever is greater).

Outdoor commercial entertainment. Outdoor commercial entertainment land uses include all land uses which provide entertainment services partially or wholly outside of an enclosed building. Such activities often have the potential to be associated with nuisances related to noise, lighting, dust, trash, and late operating hours. Examples of such land uses include outdoor commercial swimming pools, driving ranges, miniature golf facilities, amusement parks, drive-in theaters, ski hills, marinas, and water parks. Outdoor commercial entertainment land uses shall adhere to the following listed regulations:

- (1) Activity areas shall not be located closer than 300 feet to a residentially zoned property.
- (2) Facility shall be surrounded by a bufferyard with a minimum opacity of 0.80 along all property borders abutting residentially zoned property (see Article XIV).
- (3) Activity areas (including drive-in movie screens) shall not be visible from any residentially zoned property.
- (4) Outdoor commercial entertainment activities proposed in a public right-of-way or on Village-owned property must receive Village Board approval for such use, in addition to any required conditional use permit.
- (5) Minimum required parking: one space for every three persons at the maximum capacity of the establishment.

3. Conditional Use Permit

Petitioner has included the following items as part of their submittal:

- Conditional Use Permit Application
- Site Plan Application
- Certified Survey Map (to serve as the Site Plan)
- Project Narrative

Guidance regarding 2017 Act 67. With the adoption of 2017 Act 67, the State of Wisconsin has preempted municipal authority regarding conditional use permits in a number of respects, effective November 29, 2017. Decisions concerning conditional use permits now must be based upon "substantial evidence," which is defined as follows:

"Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion."

Note two additional requirements of the new law:

1. Any condition imposed must relate to the purpose of the ordinance and be based on substantial evidence.
2. If an applicant for a conditional use permit meets or agrees to meet all requirements and conditions specified in the ordinance, the conditional use permit must be granted.

The applicant must present substantial evidence demonstrating that the application and all requirements and conditions established by the Village relating to the conditional use are or shall be satisfied. Any condition imposed by the Village through ordinance or by the Village Board must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer or renewal. The Village's decision to approve or deny the application must be supported by substantial evidence.

Review procedures. The Plan Commission conducts the public hearing and acts in an advisory role to the Village Board which makes the final decision. Following the close of the public hearing, the Plan Commission may recommend (1) approval, (2) approval with conditions, or (3) denial. If approval is recommended, the Plan Commission can recommend conditions deemed necessary to protect the public health, safety, and welfare.

Required findings. As required by Section 510-157(H) of zoning code, a number of findings must be made. They are listed in the conditional use order beginning on the first page and below for your convenience. A motion recommending approval should make reference to these.

1. The proposed conditional use (the use in general, independent of its location) is in harmony with the purposes, goals, objectives, policies and standards of the comprehensive plan, the zoning code, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the Village.
2. The proposed conditional use (in its specific location) is in harmony with the purposes, goals, objectives, policies and standards of the comprehensive plan, the zoning code, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the Village.

3. The proposed conditional use, in its proposed location and as depicted on the required site plan does not result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions of the zoning code, the comprehensive plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the Village or other governmental agency having jurisdiction to guide development.
4. The proposed conditional use would maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property.
5. The proposed conditional use is located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities, or services provided by public agencies serving the subject property.
6. The potential public benefits of the proposed conditional use outweigh any and all potential adverse impacts of the proposed conditional use after taking into consideration the applicant's proposal and any requirements recommended by the applicant to ameliorate such impacts.

STAFF RECOMMENDATION:

Depending on confirmation by the Village of East Troy Plan Commission of the above-described comments, the Village of East Troy Plan Commission may take the following actions:

Conditional Use

The Village of East Troy Plan Commission recommends to the Village Board **Approval** of the Conditional Use for a restaurant with an outdoor patio, the indoor and outdoor sale and consumption of alcohol and outdoor commercial entertainment events for Leon Davis (The BBQ Pit, LLC) for the property located at 2511 Main Street (RA501100001) subject to the terms in the draft conditional use order.

EXHIBIT:

- A. Petitioner Application
- B. Public Hearing Notice
- C. Draft Conditional Use Order