

**CITY OF WEST ALLIS
RESOLUTION R-2021-0525**

**RESOLUTION RELATIVE TO DETERMINATION OF AN APPLICATION FOR A
SPECIAL USE PERMIT TO ESTABLISH A MIXED USE (COMMERCIAL AND
RESIDENTIAL), OF THE EXISTING RESIDENTIAL DUPLEX PROPERTY,
LOCATED AT 1416-18 S. 81 ST.**

WHEREAS, Paul and Kristine Budiak, property owners, duly filed with the City Administrative Officer-Clerk/Treasurer an application for a special use permit, pursuant to Sec. 12.41(2) and Sec. 12.16 of the Revised Municipal Code, to establish a mixed-use (commercial and residential), of the existing residential duplex property, located at 1416-18 S. 81 St.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on September 7, 2021, at 7:00 p.m., in the Common Council Chambers to consider the application; and,

WHEREAS, the Common Council, having carefully considered the evidence presented at the public hearing and the following pertinent facts noted: 1. The applicant, Paul and Kristine Budiak, property owners, have offices on the abutting pub property located at 8031 W. Greenfield Ave.

1. The applicant owns the properties located at 1416-18 S. 81 St., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All that land of the owner being located in the Northeast ¼ of Section 4, Township 6 North, Range 21 East, City of West Allis, Milwaukee County, State of Wisconsin describes as follows:

Lot 5 and South 5.00 feet of the vacated alley in Block 1 of the State Avenue Land Co's Subdivision.

1416-18 South 81 Street, West Allis, WI

Tax Key No. 452-0255-001

2. The subject property is a duplex that is owned by Paul and Kristine Budiak and located on a separate and abutting lot to the south of Paulie's Pub. Like other properties within the area, the subject property is zoned C-2, neighborhood commercial district.

The Budiak's are requesting that the primary use of the property be changed from solely residence to a mixed use (residence and commercial) to allow for more flexibility in the layout of entertainment events including a tent and stage for live bands associated with Paulie's Pub premise located just north at 8031 W. Greenfield Ave. (an abutting property to the north).

Earlier this year at the May 4, 2021 Common Council meeting, Paulie's Pub had received License and Health approval for a temporary extension of their licensed premise outdoors (within the parking lot of the 8031 W. Greenfield Ave. pub property). Subsequent revisions were granted at the June 15, 2021 meeting. The Paulie's Pub licensed premises does not extend to the subject 1416-1418 S. 81st St. (duplex) property. That means no alcohol storage, sales, or carrying of alcohol on the duplex property. This limitation relates only to the service of alcohol.

In order for the property owner to utilize the duplex property in a manner that is connected/accessory to Paulie's Pub, the property must comply with the zoning for the subject property. The zoning option being exercised by the owner is to apply for a special use permit. The special use permit does not include service, sale, or carrying of alcohol.

Planning met with Mr. Budiak and the 2nd District Alderpersons to discuss the tent and band stage placement on the duplex property as it currently does not comply with the zoning. A few options were discussed. The three (3) options to bring the duplex site into compliance with the existing zoning include:

- a. Relocate the tent and stage to the Paulie's Pub property (the second tent and stage would then be located upon the licensed premise); or,
- b. Apply for a special use permit for a mixed use (commercial and residential use) on the duplex property in order to create a second primary use which would allow live music; or,
- c. Raze the duplex and combine that parcel with Paulie's Pub via Certified Survey Map.

3. The aforesaid premise is zoned C-2 Neighborhood Commercial District under the Zoning Ordinance of the City of West Allis, which permits mixed uses (commercial and residential), pursuant to Sec. 12.41(2) and Sec. 12.16 of the Revised Municipal Code.

4. The subject property is part of a block along the south side of W. Greenfield Ave., the east side of S. 81 St., and north of W. Orchard St. which is zoned for commercial purposes. Properties to the north and south are developed as commercial. Properties to the east and west are developed as multi-family residential and low density residential.

NOW THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Paul Budiak and Kristine Budiak to establish a Special Use Permit to establish a mixed-use (commercial and residential), of the existing residential duplex property, located at 1416-18 S. 81 St., and is hereby granted on the following grounds: That the establishment, maintenance and operation of the proposed use, with the imposition of certain conditions hereinafter set forth, reasonably satisfies the standards set forth in Sec. 12.16 of the Revised Municipal Code, so as to permit the issuance of a special use permit as therein provided.

BE IT FURTHER RESOLVED that said special use permit is granted subject to the following conditions:

1. Site, Landscaping Screening and Architectural Plans. The grant of this special use permit is subject to and conditioned upon the site, landscaping and architectural plans approved on August 25, 2021 by the City of West Allis Plan Commission as provided in Sec. 12.13 of the Revised Municipal Code of the City of West Allis. No alteration or modification of the approved plan shall be permitted without approval by the Plan Commission. Plan Commission recommendations included the following deliverables:

2. Building and Fire codes. Building plans being submitted to and approved by the Department of Building Inspections and Neighborhood Services Department and by the Fire Department.

3. Operating Conditions:

a. The grant of this special use does not include service, sale, or carrying of alcohol onto the subject property.

b. Hours of operation and exception requests shall coincide with the those granted by the License and Health Committee for the outdoor area/premise.

c. Employees shall inspect the site and immediate vicinity and pick up litter on a daily basis.

d. Exterior pest control shall be contracted on a monthly basis.

e. If the special use is not approved, the property owner will be required to remove the tent and stage from the property and the subject area could only be used for its existing purpose as a residential duplex.

4. Sidewalk Repair. The grant of this special use is subject to compliance with Policy No. 2806 of the Revised Municipal Code relative to the City's sidewalk improvement policy as it relates to damaged, abutting sidewalk.

5. Expiration of Special Use Permit. Any special use approved by the Common Council shall lapse and become null and void one (1) year from and after that approval if the use has not commenced, construction is not underway, or the owner has not obtained a valid building permit. An extension of these time limitations may be granted without a public hearing by the Common Council by resolution reauthorizing the special use in accordance with the following criteria:

A. The applicant requesting the extension shall complete a planning application available from the Department of Development and shall submit a \$250.00 extension fee.

B. A written explanation for the extension of time shall accompany the planning application along with a timeline/schedule for obtaining necessary permits, zoning, state and municipal approvals and a target date for construction start;

C. The request for extension shall be submitted within sixty (60) days of the expiration of the special use permit;

D. The extension, if granted, shall be valid for a period of six (6) months. If no building permit has been issued and construction has not commenced within six (6) months from and after the extension has been granted, the special use shall become null and void.

6. Miscellaneous.

A. Applicants are advised that the foregoing conditions are reasonably necessary to protect the public interest and to secure compliance with the standards and requirements specified in Sec. 12.16 of the Revised Municipal Code; that the issuance of the special use is expressly subject to compliance with said conditions.

B. The use, as granted herein, is subject to applicants' compliance with all other state and local laws and regulations which may be applicable to the proposed use of the real estate in question.

C. The special use, as granted herein, shall run with the land and benefit and restrict all future owners and occupants of the property, unless the use shall lapse or be terminated and the use will not be altered or extended (including structural alterations and/or additions) without the approval of the Common Council, following public hearing, all as provided in Sec. 12.16 of the Revised Municipal Code.

7. Lapse. If the applicant does not meet all of the terms and conditions set forth in this grant of a special use within one year of the granting thereof, then the Special Use Permit shall lapse and become null and void and the applicant shall forfeit any right to use the property as conferred by the Special Use Permit. The failure of the applicant to meet the terms and conditions of the Special Use Permit shall subject the permit to being declared void by the Common Council after notice to the applicant and a hearing before the Safety and Development Committee. Upon a finding and recommendation by the Committee to the Common Council on the matter, the applicant and/or any interested person may make comments regarding the matter to the Common Council prior to the Common Council's next regular meeting following the recommendation. Upon the Common Council's finding that the Special Use Permit has lapsed and become void, the applicant shall cease all operations at the property.

8. Termination of Special Use. If the person or entity granted the special use violates, allows or suffers the violation of the ordinances of the City of West Allis, the State of Wisconsin or the United States on the premises covered by the special use, then the special use may be terminated.

9. Acknowledgement. That the applicants sign an acknowledgment that he has received these terms and conditions and will abide by them.

The undersigned applicant agrees to the terms and conditions and has agreed that the grant of the Special Use Permit is conditioned on meeting the terms and conditions of this resolution.

Paul and Kristine Budiak, (property owners)

Mailed to applicant on the _____ day of _____, 2021

City Clerk

PASSED AND ADOPTED BY THE CITY OF WEST ALLIS COUNCIL

_____.

	AYE	NAY	ABSENT	ABSTAIN
Ald. Angelito Tenorio	_____	_____	_____	_____
Ald. Vince Vitale	_____	_____	_____	_____
Ald. Tracy Stefanski	_____	_____	_____	_____
Ald. Marty Weigel	_____	_____	_____	_____
Ald. Suzzette Grisham	_____	_____	_____	_____
Ald. Danna Kuehn	_____	_____	_____	_____
Ald. Thomas Lajsic	_____	_____	_____	_____
Ald. Dan Roadt	_____	_____	_____	_____
Ald. Rosalie Reinke	_____	_____	_____	_____
Ald. Kevin Haass	_____	_____	_____	_____

Attest

Presiding Officer

Rebecca Grill, City Clerk, City Of West Allis

Dan Devine, Mayor City Of West Allis