



STAFF REPORT
WEST ALLIS BOARD OF APPEALS
Tuesday, September 13, 2022, 6:00 PM
Room 128 – City Hall – 7525 W. Greenfield Ave.

1. **Area variance to section 19.34(2) of the zoning code to appeal eliminate a 3,500-ft setback requirement for a secondhand article sales use at 2245 S. 108 St. (Tax key no. 481-9990-001).**



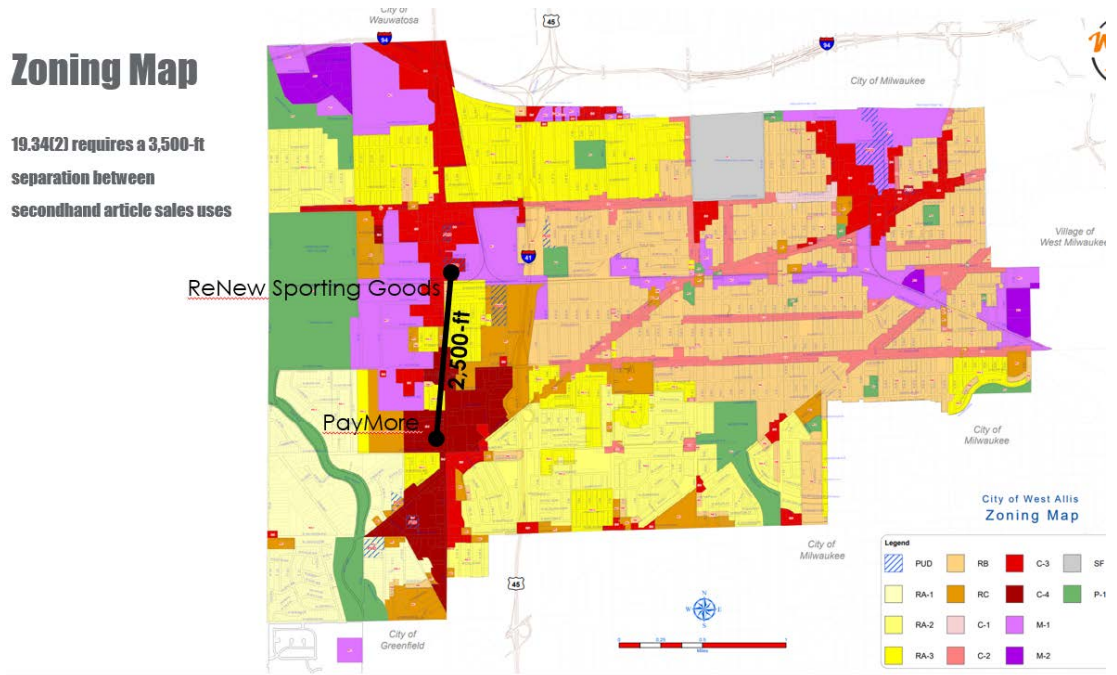
Request for Area Variance - Overview

Timothy A VenHaus of Sparkenation, LLC d/b/a PayMore, a secondhand article retail use has applied for both occupancy and a secondhand article license. The license was approved by the Common Council/License and Health Committee on August 2, 2022. However, zoning review of the license and occupancy revealed that secondhand article dealers require a conditional use permit and are also subject to a 3,500-ft separation clause (in other words a setback requirement from other similar secondhand retail uses). Another known secondhand store is located within 2,500-ft (Renew Sporting Goods at 1704 S. 108 St.). Staff notes that the ordinance is in error as it is not the city's intent to require secondhand article shops to obtain a conditional use.

Staff comment - Resale/secondhand shops were previously allowed/permitted in all commercial districts. Whereas secondhand jewelry shops and pawn shops were only allowed in the C-4 District (and conditional uses with a 3,500-ft setback from other similar uses). Planning and Zoning staff noted an error in our new zoning code, adopted in May 2022. It's now more onerous for a resale shop/secondhand use (like PayMore) to open for business. The code limits such uses to just the C-4 district as a conditional use with a 3,500-ft separation clause. Previously resale shops were allowed in all commercial zoning districts as a permitted use. Planning missed this one in our new code review, as it was not intended to make it harder for secondhand article dealers (like resale shops).

- The purpose of this area variance appeal is to ease/eliminate the setback restriction (specifically for the secondhand article use). PayMore is not a pawn shop and does not sell jewelry. PayMore buys, sells and trades electronic goods. The appeal will help a business overcome an error made in our zoning ordinance, while Planning staff completes the revision to the zoning ordinance. It was not the intent of the City to require resale shops to obtain a conditional use permit or be subject to a separation clause.
- Planning is preparing an ordinance amendment to remedy this issue and some other house-cleaning items will also be brought before our Common Council for consideration at a public hearing on September 20.

- In the interim, the new business has received a license from our L&H Committee, and is conducting build-out of the store at 2245 S. 108 St., a multi-tenant strip mall, on S. 108 St. and W. Lincoln Ave.



19.32 Principal Uses

| Retail | RA-1 | RA-2 | RA-3 | RB | RC | C-1 | C-2 | C-3 | C-4 | M-1 | M-2 | P | SF |
|-------------------------------------|------|------|------|----|----|-----|-----|-----|-----|-----|-----|---|----|
| Neighborhood Retail | | | | | | P | P | P | P | P | P | | |
| General Retail | | | | | | | | P | P | P | P | | |
| Large Retail Development | | | | | | | | C | C | C | C | | |
| Alcohol Beverage Sales | | | | | | | P | P | P | P | P | | |
| Nicotine Sales | | | | | | | | L | L | L | L | | |
| Nominal Price Retail | | | | | | | | | L | | | | |
| Pawnbroker Sales | | | | | | | | | C | | | | |
| Secondhand Article or Jewelry Sales | | | | | | | | | C | | | | |
| Thrift Retail | | | | | | | | | C | | | | |

19.34(2) Conditions

2. Retail

| Principal Use | District(s) | Criteria |
|-------------------------------------|-------------|---|
| Pawnbroker Sales | C-4 | No conditional use permit may be issued if the lot is located within 3,500 feet from any other lot used for pawnbroker sales or secondhand article or jewelry sales |
| Secondhand Article or Jewelry Sales | C-4 | No conditional use permit may be issued if the lot is located within 3,500 feet from any other lot used for pawnbroker sales or secondhand article or jewelry sales |



Recommendation: Recommend approval of a 3,500-ft area variance to section 19.34(2) of the zoning code to thereby eliminate the conditional 3,500-ft setback requirement for a secondhand article sales use at 2245 S. 108 St. (Tax key no. 481-9990-001).