



# City of West Allis

7525 W. Greenfield Ave.  
West Allis, WI 53214

## Resolution

**File Number:** R-2014-0177

**Final Action:**

**Sponsor(s):** Safety & Development Committee

**AUG 05 2014**

Resolution relative to determination of a Special Use Permit for Lucky Bakery & BBQ, a proposed restaurant, to be located at 11078 W. National Ave.

WHEREAS, Roy T. Kwok, d/b/a Lucky Bakery & BBQ, duly filed with the City Clerk an application for a special use permit, pursuant to Sec. 12.40(2), and Sec. 12.16 of the Revised Municipal Code, to establish Lucky Bakery & BBQ, a proposed restaurant, to be located at 11078 W. National Ave.

WHEREAS, after due notice, a public hearing was held by the Common Council on August 5, 2014, 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, Roy T. Kwok, resides at 9002 W. Lisbon Ave., Unit 206, Milwaukee, WI 53222.
2. The applicant has a valid offer to lease the property at 11078 W. National Ave., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All the land of the owner being located in the Southeast ¼ of Section 7, Township 6 North, Range 21 East, City of West Allis, Milwaukee County, State of Wisconsin, describes as follows:

Commencing at the Northeast corner of the said Southeast ¼, thence Southerly, 594.18 feet, along East ¼ line of said Southeast ¼, thence Southwest, 1019.94 feet, along centerline of West National Avenue, thence Northwest, 60.00 feet, at right angle to the North right-of-way line of West National Avenue and Point of Beginning, thence Southwest, 563.54 feet, along said North right-of-way line, thence Northwest, 71.42 feet, along East right-of-way line of South 112th Street, thence Northerly, 279.08 feet, along said East right-of-way line, thence Northeast, 51.98 feet, thence Easterly, 48.03 feet, to the Southerly right-of-way line of Mequanigo Drive, thence Northeast, 285.02 feet, along said Southerly right-of-way line, thence Southeast, 260.00 feet, to the Point of Beginning.

Tax Key No. 520-9999-003

Said land is located at 11064-11112 W. National Ave.

3. The use of the building will be a retail use. The tenant space for Lucky Bakery & BBQ is

approximately 1,400 square feet. The tenant intends to utilize approximately 425 square feet for the customer pick-up and service counter area. The kitchen area will consist of approximately 500 square feet of the space.

The property is zoned C-4, Regional Commercial District and bakeries, restaurants and outdoor dining are permitted as a special use. Services offered will include: freshly prepared Chinese pastries and barbecue deli items offering menu items such as curry beef bun, barbecue pork bun, red bean paste bun, coconut twist bun, roasted duck, and barbecue chicken.

4. The aforesaid premises is zoned C-4, Regional Commercial District under the Zoning Ordinance of the City of West Allis, which permits bakeries, restaurants and outdoor dining as a special use, pursuant to Sec. 12.43(2) and Sec. 12.16 of the Revised Municipal Code.

5. The subject property is located on the north side of W. National Ave. between S. 110 St. and S. 112 St., which is zoned for commercial purposes. Properties to the north, east, and west are developed as residential uses and properties to the south are developed as commercial uses.

6. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area as there is off-street parking on the subject property, off-street municipal parking in the Downtown area, on street parking and public transportation along the commercial corridor.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Roy T. Kwok, to establish Lucky Bakery & BBQ, a proposed restaurant, to be located at 11078 W. National Ave., be, 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. 12.43(2) and 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, landscape, screening and architectural plans approved on July 23, 2014, 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.

2. Building Plans and Fire Codes. The grant of this special use is subject to building plans being submitted to and approved by the Department of Building Inspections and Zoning and by the Fire Department.

3. Off-street Parking. In accordance with Sec. 12.19 of the Revised Municipal Code, ten (10) parking spaces are required for the tenant space. The entire property has a total of 142 parking spaces. The Common Council shall have the authority to change the minimum parking



requirements in accordance with Sec. 12.16(9)(a) of the Revised Municipal Code . The proposed development should not adversely contribute to traffic volumes or traffic flow in the area as there is off-street parking on the subject property, and public transportation along the commercial corridor.

4. Commercial Business Operations.

A. Hours of operation. The Lucky Bakery and BBQ applicant has volunteered the hours of 9:00 am to 10 pm daily (seven days per week). For the purposes of granting this special use, the hours of operation may be between the daytime hours defined as 7am to 10pm daily/seven days per week.

B. Outdoor extension/dining is allowed as part of the grant of this special use, but subject to a revised site and landscaping plan for the outdoor area being submitted to the Department of Development for Plan Commission approval.

C. Excessive odors from cooking on premises shall be controlled within limits of current technology.

D. Refrigerator/coolers shall locate condensers within an enclosed area.

E. All exterior doors shall be kept closed to prevent sound/noise emissions into the adjacent neighborhood.

F. Excessive noise and vibrations shall not emanate from the building.

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

5. Litter and Monitoring. Employees shall inspect the area and immediate vicinity and pick up litter on a daily basis. Refuse, recyclables, and other waste materials will be stored inside or fully enclosed within an approved 4-sided structure to match the building.

6. Deliveries and Refuse Pickup. All refuse to be provided by a commercial hauler. All refuse, recyclables and other waste material shall be screened from view within four-sided enclosure large enough to accommodate all outdoor storage of refuse and recyclable containers and/or compactor and approved by the Department of Development. All tenants of the property will be required to abide by the City of West Allis health/public nuisance rules per Chapter 7 of the Revised Municipal Code. Because there are residents that live within the building and residential neighborhood adjacent to the site, delivery operations and refuse pick up shall only be permitted during daytime hours. These functions shall not be permitted between the hours of 9:00 p.m. and 7:00 a.m.

7. Marketing Displays. The use of pennants, special lighting, flags, streamers or other signage typically temporary in nature, hanging, floating or attached to a structure or vehicle shall not be permitted.

8. Pagers, Intercoms. The use of outdoor pagers, intercoms, or loud speakers shall not be permitted on site.

9. Window Signage. Any building window signage shall not exceed twenty (20) percent of each window's area. Such signage shall be reviewed/approved by the Department of Development prior to installation and affixed to the interior of the window and shall not flash.

10. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light splays from the property boundaries.

11. 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 (if any), abutting sidewalk.

12. Pollution. The use shall not cause any noxious or unwholesome liquid or substance or any dirt, mud, sand, gravel, or stone refuse or other materials to be deposited upon any public right of way or flow into any sanitary sewer, storm sewer, or water supply system, or onto adjacent properties.

Noxious Odors, Etc. The use shall not emit foul, offensive, noisome, noxious or disagreeable odors, gases, or effluvia into the air. Mechanical systems shall be maintained to efficiently remove noxious odors.

13. 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.

14. 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.

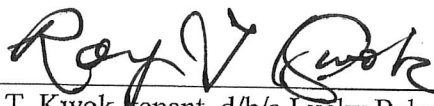
C. The special use, as granted herein, shall run with the land and benefit and restrict all future owners and occupants of the property, unless the use shall lapse or be terminated and the use will not be altered or extended (including structural alterations and/or additions) without the approval of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

15. 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.

16. 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, the special use may be terminated.

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

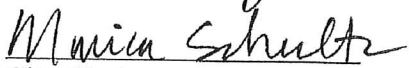
The undersigned applicant agrees to the terms and conditions and has agreed that the grant of the Special Use Permit is conditioned on meeting the terms and conditions of this resolution.



Roy T. Kwok, tenant, d/b/a Lucky Bakery & BBQ

Mailed to applicant on the

12<sup>th</sup> day of August, 2014



City Clerk

cc: Dept. of Development  
Dept. of Building Inspections and Zoning  
Div. of Planning

ZON-R-962-8-5-14-bjb

ADOPTED 8-5-14

Monica Schultz

Monica Schultz, City Clerk

APPROVED 8/8/14

Dan Devine

Dan Devine, Mayor

COMMUNITY **CNI** NEWSPAPERS

AFFIDAVIT OF PUBLICATION

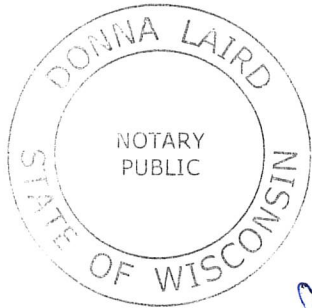
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WEST ALLIS CITY OF-LEGALS  
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7525 W GREENFIELD AVE

West Allis, WI 53214

Patti Guerrero hereby states that she is authorized by Journal Communications Inc. to certify on behalf of Journal Community Publishing Group, publisher of Community Newspapers, public newspapers of general circulation, published in the city of Hartland and county of Waukesha, printed in the city and county of Waupaca; was published and delivered in the My Community Now- Midwest on 7/17/2014 and 7/24/2014; that said printed copy was taken from said printed newspaper(s).

*Patti Guerrero*  
\_\_\_\_\_  
Patti Guerrero



State of Wisconsin

County of Milwaukee

Subscribed and sworn before me this 24 day of July, 2014.

*Donna Laird*  
\_\_\_\_\_

Notary Public State of Wisconsin

My Commission Expires \_\_\_\_\_

DONNA LAIRD  
NOTARIZED 07-24-14  
COMMISSION  
EXPIRES 10\*09\*16

**CITY OF WEST ALLIS NOTICE  
OF PUBLIC HEARING  
Tuesday, August 5, 2014,  
7:00 P.M.**

NOTICE IS HEREBY GIVEN that the Common Council of the City of West Allis will conduct a public hearing on Tuesday, August 5, 2014, at 7:00 P.M., or as soon thereafter as the matter may be heard, in the Common Council Chambers of West Allis City Hall, 7525 W. Greenfield Avenue, West Allis, Wisconsin on the: **Special Use Permit for Lucky Bakery & BBQ, a proposed restaurant, to be located at 11078 W. National Ave.** Additional project information from the applicant is available on the City's website for your review using the following link: <http://www.westalliswi.gov/pzpublichearings>. You may express your opinion in writing to the City Clerk, [clerk@westalliswi.gov](mailto:clerk@westalliswi.gov), prior to the meeting, or orally at such public hearing.

Dated at West Allis, Wisconsin,  
this 9th day of July 2014.

/s/Ann Marie Neff, Deputy Clerk  
PUBLISH: July 17 and July 24,  
2014  
14H16  
WNAXLP