



City of West Allis

7525 W. Greenfield Ave.
West Allis, WI 53214

Resolution

File Number: R-2011-0246

Final Action: 12/20/2011

Sponsor(s): Safety & Development Committee

Resolution relative to determination of Special Use Permit for a proposed expansion of hours for Taco Bell, an existing restaurant with a drive-thru facility located at 11011 W. National Ave.

WHEREAS, Ralph Waszak, Jr., of Stark & Knoll Co., L.P.A., duly filed with the City Administrative Officer-Clerk/Treasurer an application for a Special Use permit, pursuant to Sec. 12.43(2) and Sec. 12.16 of the Revised Municipal Code, for the proposed expansion of hours for the existing Taco Bell restaurant, located at 11011 W. National Ave.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on December 20, 2011, at 7:00 p.m., in the Common Council Chamber 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, Ralph Waszak, Jr. of Stark & Knoll Co., L.P.A., has offices at 3475 Ridgewood Rd., Akron, OH 44333.
2. The agent represents Taco Bell of America, Inc., who leases the property at 11011 W. National Ave., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All the land of the owner being located in the Southeast $\frac{1}{4}$ of Section 7, Township 6 North, Range 21 East, City of West Allis, Milwaukee County, State of Wisconsin, describes as follows:

Parcel 1 of the Certified Survey Map No. 813 and Parcel 2 of the Certified Survey Map No. 7902.

Tax Key No. 520-9965-019

Said land being located at 11011 W. National Ave.

3. The applicant is proposing to expand their existing hours of operation.
4. The aforesaid premise is zoned C-4 Regional Commercial District under the Zoning Ordinance of the City of West Allis, which permits restaurants with drive-thru facilities as a Special Use, pursuant to Sec. 12.43(2) and Sec. 12.16 of the Revised Municipal Code.
5. The subject property is part of a block along the west side of S. 108 St. between W. National

Ave. and W. Oklahoma Ave., which is zoned for commercial purposes. Properties to the north, south and east are all developed for commercial. Properties to the west are developed for both commercial and residential purposes.

6. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Ralph Waszak, Jr. of Stark & Knoll Col, L.P.A., for the proposed expansion of hours for the existing Taco Bell, 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. 12.16 and Sec. 12.43(2) 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, Signage and Architectural Plans. The grant of this Special Use Permit is subject to and conditioned upon the site plan initially approved on December 15, 1999 by the City of West Allis Plan Commission and most recently reviewed by the Plan Commission on December 7, 2011, 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. Restaurant Operations. The restaurant will be utilized for dine-in and drive-thru service. Outdoor dining shall be permitted on site.
4. Hours of Operation. The hours of operation are seven days a week 5:00 a.m. to Midnight for dine-in service and 5:00 am to Midnight for drive-thru service.

The City of West Allis, by official action of the Common Council, may revoke the authorization for the applicant to have its drive-thru window service open beyond Midnight, if there are significant law enforcement complaints. This revocation may be done on one weeks' notice after official written warning, with the applicant required to cease such operations within three (3) days of Common Council action.

5. Off-Street Parking. The restaurant requires a total of 19 parking spaces, including 1 ADA stall. A total of 13 surface stalls are provided on site (including 2 ADA spaces). An additional 38 surface stalls are provided on the adjoining lot, which is owned and solely utilized by Taco Bell of America for this purpose. The drive-thru will provide stacking for 9 vehicles.

6. Signage. The grant of this special use is subject to all signage plans being in compliance with the City of West Allis signage ordinance.
7. Litter. Employees shall inspect the area and immediate vicinity and pick up litter on a daily basis. Refuse, recyclables, grease and other waste materials will be fully enclosed within an approved structure.
8. Window Signage. Any building window signage shall not exceed twenty (20) percent of each window's area.
9. 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.
10. Noxious Odors, Etc. The restaurant 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.
11. Pollution. The restaurant 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.
12. 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.
13. 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.

14. 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.

15. 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.

16. Acknowledgement. That the applicant signs 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.

Ralph Waszak, Jr., d/b/a Stark & Knoll Co., L.P.A.

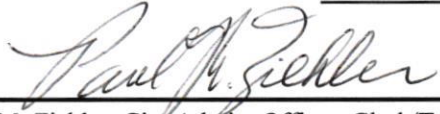
Mailed to applicant on the
23 day of December, 2011

Monica Schultz
Assistant City Clerk

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

ZON-R-844-12-20-11-amd

ADOPTED AS AMENDED 12/20/2011



Paul M. Ziehler, City Admin. Officer, Clerk/Treas.

APPROVED AS AMENDED 12/23/11



Dan Devine, Mayor

Janel Lemanske

From: Bart Griepentrog
Sent: Wednesday, August 29, 2012 8:55 AM
To: Janel Lemanske
Cc: Steve Schaer
Subject: RE: R-2011-0246

They would still be operating under their previous Special Use Permit, since their operations never lapsed. It is my understanding that they would have one year to agree and commence operations in accordance with the new Special Use Permit, and if they don't, that one would be null and void.

Bart

From: Janel Lemanske
Sent: Wednesday, August 29, 2012 8:07 AM
To: Bart Griepentrog
Subject: RE: R-2011-0246

Because Taco Bell has not elected to move forward plus not signing the resolution does that make the SUP null and void?

From: Bart Griepentrog
Sent: Tuesday, August 28, 2012 4:39 PM
To: Janel Lemanske
Subject: RE: R-2011-0246

Are you asking because Taco Bell did not sign the resolution? It is my understanding that they've opted not to move forward with it. They wanted to be open 24/7.

Does this answer your question?

Bart

From: Janel Lemanske
Sent: Tuesday, August 28, 2012 3:37 PM
To: Bart Griepentrog
Subject: R-2011-0246

Hi Bart,

I'm following up on the following resolutions:

R-2011-0246 Adopted as amended 12-20-11 Resolution relative to determination of SUP for a proposed expansion of hours for Taco Bell, an existing restaurant with a drive-thru facility located at 11011 W. National Ave.

My last notes indicate that Taco Bell was upset with closing hours changed from 1 a.m. – midnight.

What's the scoop? Taco's in the a.m.?

Thank you,
Janel

Janel Lemanske
Clerk Specialist II

Janel Lemanske

From: Ralph Waszak Jr <RWaszak@stark-knoll.com>
To: Janel Lemanske
Sent: Friday, December 23, 2011 11:28 AM
Subject: Read: City of West Allis Resolution R-2011-0246

Your message

To: RWaszak@stark-knoll.com
Subject:

was read on 12/23/2011 11:28 AM.

Ralph called - waiting on someone in his office to return B4 signing resolution

1/3/12 4:03pm

per Bart (verbal) - Taco Bell upset w/closing hours chgd from 1am - midnight + that McDonald's is violating their SUP. may still sign resolution because they want the breakfast hours.

1/11/12
yl