



# City of West Allis

Resolution: R-2020-0057

**File Number: R-2020-0057**

**Final Action:**

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

Resolution relative to determination of Application for a Special Use Permit for 2011 Massage, a proposed massage business, to be located at 735 S. 108 St.

WHEREAS, Fong Chiu, d/b/a 2011 Massage, duly filed with the City Clerk an application for a Special Use Permit, pursuant to Sec. 12.16 and Sec. 12.42(2) of the Revised Municipal Code, to establish a massage business at 735 S. 108 St.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on February 19, 2020 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, Fong Chiu, d/b/a 2011 Massage, is proposing to lease and renovate the former Mattress Savings tenant space at 735 S. 108 St. into a massage business.
2. The applicant has a valid offer to lease the property located at 735 S. 108 St., from property owners. The subject property is described as follows:

All the land of the owner being located in the Southeast  $\frac{1}{4}$  of Section 31, Township 7 North, Range 21 East, City of West Allis, Milwaukee County, State of Wisconsin, describes as follows:

Lots 5 thru 9 in Block A of the Greenfield Highlands subdivision, except East 27.00 feet for right-of-way purposes.

Tax Key No. 445-0006-001

Said land being located at 735 S. 108 St.

3. The applicant proposes to establish a massage business. The massage business will have 4 separate rooms.
4. The aforesaid premises is zoned C-3, Community Commercial District under the Zoning Ordinance of the City of West Allis, which permits massage businesses as a Special Use, pursuant to Sec. 12.16 and Sec. 12.42(2) of the Revised Municipal Code.
5. Adjacent properties to the west are developed for residential usage. Properties to the east are zoned industrial. Properties to the north are zoned for commercial. Properties to the south are zoned for commercial use.
6. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area, as the property offers off-street parking.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Fong Chiu, d/b/a 2011 Massage, is proposing to lease and renovate the former Mattress Savings tenant space at 735 S. 108 St. into a massage business, 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 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 a Site, Landscaping, Screening and Architectural Plans as approved on January 22, 2020 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, Fire Codes and Licensing. The grant of this Special Use is subject to building plans being submitted to and approved by the Department of Building Inspections and Neighborhood Services, Health and by the Fire Department. All applicable Federal, State and local licenses being applied for and approved. Seating capacity shall be in accordance with limits of occupancy load calculations as approved by Building Inspection and Fire Department.

3. Operations.

A. The massage business will hire up to 3 masseuses and offer the following styles of massage: oriental body work, Swedish, deep tissue, reflexology, release point and foot massage.

B. Business operations are Monday - Saturday 9am - 10pm and Sunday 10am - 9pm.

4. Off-Street Parking. A total of five (5) parking spaces are required for the proposed use (calculated as building area of 1,688-sf divided by 1 parking space for every 300 square feet of business space). The property has off-street parking for (16) parking spaces. Additional shared parking is available within the area.

5. Signage. Signage shall be in compliance with the City's Signage Ordinance. Any building window signage shall not exceed twenty (20) percent of each window's area. Rope lighting shall not be allowed.

6. 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.

7. Litter. Employees shall inspect the area and immediate vicinity and pick up litter on a daily basis.

8. Refuse Collection and pick-up. Refuse collection to be provided by commercial hauler and stored within the building or an enclosure large enough to accommodate all outdoor storage of refuse and recyclable containers and/or compactor, as approved by the Plan Commission.

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.

9. Pest Control. Exterior pest control shall be contracted on a monthly basis.

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

11. Sidewalk Repair. The grant of this special use is subject to compliance with Policy No. 2814 of the Revised Municipal Code relative to the City's sidewalk improvement policy as it relates to damaged, abutting sidewalk.

12. Outdoor Lighting. The grant of this special use is subject to all lighting fixtures being orientated and/or shielded in such a manner that no light spills from the property boundaries.

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

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

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Applicant, Fong Chui, d/b/a 2011 Massage

\_\_\_\_\_  
Dennis Boschi, Property owner

Mailed to applicants on the  
\_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
City Clerk

cc: Dept. of Development  
Dept. of Building Inspections and Neighborhood Services  
Div. of Planning

ZON-R-1207-2-19-20

**ADOPTED** \_\_\_\_\_

**APPROVED** \_\_\_\_\_

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**Steven A. Braatz, Jr., City Clerk**

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**Dan Devine, Mayor**