



# City of West Allis

7525 W. Greenfield Ave.  
West Allis, WI 53214

## Resolution

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**File Number: R-2012-0196**

**Final Action: 10/16/2012**

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

Resolution relative to determination of Special Use Permit for a proposed expansion of hours for the existing gas station/convenience store located at 7920 W. National Ave.

WHEREAS, Harjeet S. Walia, prospective owner, 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 amend the hours of operation for the existing gas station and convenience store at 7920 W. National Ave.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on October 2, 2012, 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, Harjeet S. Walia, owner, resides at 9519 N. River Bend Court, River Hills, WI 53217.
2. The applicant recently purchased said premises located at 7920 W. National Ave., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

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

Lot 1 of the Certified Survey Map No. 8129.

Tax Key No. 452-0708-000

Said Property being located at 7920 W. National Ave.

3. The applicant is proposing to amend the hours of operation for the existing auto repair building and gas station/convenience store. Currently, the pumps are open 24 hours and the convenience store is open 5:00 a.m. - 10:00 p.m. The applicant is requesting that the convenience store be open 24 hours a day. The request was tabled at the October 2, 2012 Common Council, Safety & Development Recess Meeting, because there was concern with the 24-hour request and proximity to a tavern and residential neighborhood. The hours of operation have been approved as amended as noted on Page 2, Item 3 of this Resolution.

4. The aforesaid premises is zoned C-2 Neighborhood Commercial District and RB-2 Residential District under the Zoning Ordinance of the City of West Allis, which permits gas stations and convenience stores, pursuant to Sec. 12.41(2) of the Revised Municipal Code.

5. The subject property is located mid-block on W. National Ave. between S. 79 St. and S. 80 St. Properties to the north are developed as single and two-family residential uses, the property to the east is developed as multi-family residential. Properties to the west are developed as mixed-use, residential and commercial.

6. The use, value and enjoyment of other property in the surrounding area for permitted uses will not be substantially impaired or diminished by the establishment, maintenance or operation of the special use.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application submitted by Harjeet S. Walia, owner, 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 Secs. 12.16 and Sec. 12.41(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, Architectural and Signage Plans. The grant of this special use permit is subject to complying with the approval of site, landscape, and architectural plans approved March 26, 2008. No alteration or modification of the approved plan shall be permitted without approval by the West Allis Plan Commission.

2. Parking. A total of nine parking stalls, including one (1) ADA stall, are required per the Zoning Code. Twelve parking stalls are provided on site including one (1) ADA stall.

3. Hours of Operation. Hours of operation for the gas pumps are 24 hours and the convenience store shall be from 5:00 a.m. to midnight, (7) seven days per week.

4. Deliveries. No deliveries shall take place between the hours of 9:00 p.m. and 7:00 a.m.

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

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. Outdoor Lighting. All outdoor lighting fixtures and canopy fixtures shall be shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, do not splay past the property boundaries. Canopy lighting shall be recessed within the canopy structure to limit light splay.

8. Outdoor Storage and Display. No outdoor storage, sales, or display of merchandise shall be permitted on site unless screened from view within a four-sided masonry enclosure.

9. 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.

10. Window Signage. Window signage shall not exceed 20% of the window area.

11. Gas Station Operations. Intercoms, pagers and audio voice-guided menu systems are not permitted at point of sale areas, such as gas pumps.

12. Litter. Employees shall inspect the site 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.

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. Applicant is 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 applicant's 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 then the special use may be terminated.

17. 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.

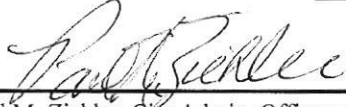
Harjeet S. Walia  
Harjeet S. Walia, Owner

Mailed to applicant on the  
24 day of October, 2012  
Miriam Schulte  
Assistant City Clerk

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

ZON-R-888-10-2-12-amended/bjb

ADOPTED AS AMENDED 10/16/2012



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

APPROVED AS AMENDED 10/22/12



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Dan Devine, Mayor