

**CITY OF WEST ALLIS  
RESOLUTION R-2021-0711**

**RESOLUTION RELATIVE TO DETERMINATION OF AN APPLICATION FOR A  
SPECIAL USE PERMIT FOR A PLAYGROUND USE TO BE LOCATED AT 2320-34  
S. 79TH ST.**

**WHEREAS**, Michael Barry, on behalf of St. Paul’s Lutheran Church and School, filed with the City Clerk an application for a Special Use Permit, pursuant to Sec.,12.36(2) and Sec. 12.16 of the Revised Municipal Code, to establish a playground use accessory to the existing church and school to be located at 2320-34 S. 79th St.; and,

**WHEREAS**, after due notice, a public hearing was held by the Common Council on November 16, 2021, 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, Michael Barry, on behalf of St. Paul’s Lutheran Church and School, owns the properties at 2320-34 S. 79th St.
2. The applicant, Paul’s Lutheran Church and School, intends to demolish three existing two-family dwellings and repurpose the land area for a proposed playground use that would be utilized by elementary school aged children of St. Paul’s Church and School. The applicant will continue to own the subject properties and maintain the proposed playground use upon three properties currently located within the address range of 2320- 34 S. 79th St. more specifically listed and described below.

The subject properties:

- 2320-22 S. 79th St. (Tax Key No. 488-0125-001)
- 2326-28 S. 79th St. (Tax Key No. 488-0126-000)
- 2332-34 S. 79th St. (Tax Key No. 488-0127-000)

Legal description:

All that land of the owner being located in the Northeast ¼ of Section 9, Township 6 North, Range 21 East, City of West Allis, Milwaukee County, State of Wisconsin, described as:

Lots 8 and 9, Block 1 in the Eckel’s Subdivision and South 9.00 feet of the vacated alley adjacent to said Lot 8.

3. The playground equipment is proposed to be located in the northern portion of subject lands described above (in close proximity to the St. Paul’s building). The total playground land area

is about 19,000-sf, and includes a portion of previously vacated alleyway. The playground equipment is suited for children ages 5-14 years. The surfaces of the playground will be blacktop in the alleyway, woodchips in the swing set area, under the play area will be a rubberized, cushioned play surface. The remaining areas will be grass per the approved site/landscaping plan. The playground area will feature a perimeter fence with a 5-foot setback from the property boundaries. Landscaping will be installed on the south side of the property to reduce sound and increase privacy of abutting neighbors to the south. Signage will be posted to indicate the playground's intent to service St. Paul's members.

4. Project area and scope:

A. The properties at 2320-34 S. 79th St. are a combined 19,000-sf (0.436 acres) in area and are classified as a residential land use within the RB-2, Residential Zoning District. The existing structures consist of three duplexes, each one with a detached garage.

B. The existing structures except for the northernmost garage are proposed to be demolished as part of the new playground area. The garage would be used for accessory storage of property maintenance and playground related equipment.

5. The 2320-34 S. 79th St. properties are zoned RB-2, Residential Commercial District, under the Zoning Ordinance of the City of West Allis, which permits religious institutions and public and private educational institutions as a special use, pursuant to Section 12.31(3), by way of Sec. 12.36(2)(a) as a special use (Sec. 12.16) of the Revised Municipal Code.

6. The subject property is located along the east side of S. 79th St. and south of W. Lincoln Ave., which is zoned for residential purposes. Properties to the north are zoned and developed for commercial uses. Properties to the east, west, and south are zoned residential and developed for low density residential.

**NOW THEREFORE**, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Michael Barry, on behalf of St. Paul's Lutheran Church and School, to establish a playground, located on properties at 2320-34 S. 79th St., 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 Section 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 October 27, 2021, 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. Alteration or modification of the approved plan may be considered but shall require 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 Neighborhood Services and by the Fire Department if applicable.

3. Operations. The grant of this special use is conditioned upon the following:

A. Excessive noise and vibrations shall not emanate from the premises.

B. Landscaping and screening shall be in accordance with the approved site and landscaping plans.

C. The property owner shall inspect the area and immediate vicinity and pick up litter on a daily basis. Refuse, recyclables, and other waste materials will be enclosed in accordance with the approved site plan.

D. The use of outdoor pagers, intercoms, or speakers shall not be permitted on site.

E. A lighting plan for light fixtures being orientated downward and/or shielded in such a manner that no light splays from the property boundaries.

F. Playground use by elementary school aged children of St. Paul's Church and School. The proposed playground is accessory to the church and school use the hours of operation to be consistent with St. Paul's Lutheran Church and School hours.

4. Deliveries and Refuse Collection. All refuse to be provided by a commercial hauler. All refuse, recyclables and other waste material shall be screened from view within an enclosure 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 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 10:00 p.m. and 7:00 a.m.

5. 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.

#### 6. 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.

7. 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.

8. 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.

9. 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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St. Paul's Lutheran Church and School, property owner or agent

\_\_\_\_\_ day of \_\_\_\_\_, 2021.

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City Clerk

PASSED AND ADOPTED BY THE CITY OF WEST ALLIS COUNCIL

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|                       | <b>AYE</b> | <b>NAY</b> | <b>ABSENT</b> | <b>ABSTAIN</b> |
|-----------------------|------------|------------|---------------|----------------|
| Ald. Angelito Tenorio | _____      | _____      | _____         | _____          |
| Ald. Vince Vitale     | _____      | _____      | _____         | _____          |
| Ald. Tracy Stefanski  | _____      | _____      | _____         | _____          |
| Ald. Marty Weigel     | _____      | _____      | _____         | _____          |
| Ald. Suzzette Grisham | _____      | _____      | _____         | _____          |
| Ald. Danna Kuehn      | _____      | _____      | _____         | _____          |
| Ald. Thomas Lajsic    | _____      | _____      | _____         | _____          |
| Ald. Dan Roadt        | _____      | _____      | _____         | _____          |
| Ald. Rosalie Reinke   | _____      | _____      | _____         | _____          |
| Ald. Kevin Haass      | _____      | _____      | _____         | _____          |

Attest

Presiding Officer

\_\_\_\_\_  
Rebecca Grill, City Clerk, City Of  
West Allis

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Dan Devine, Mayor City Of West  
Allis