



City of West Allis

Resolution: R-2015-0172

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number: R-2015-0172

Sponsor(s): Safety & Development Committee

Final Action:

AUG 4 2015

Resolution relative to determination of Special Use Permit for Capri Di Nuovo, an existing restaurant, for a proposed outdoor extension of premise, located at 8340 W. Beloit Rd.

WHEREAS, Chris Paul and Abby Paul, d/b/a Capri Di Nuovo, duly filed with the City Administrative Officer-Clerk/Treasurer an application for a Special Use Permit, pursuant to Sec. 12.16 and Sec. 12.42(2) of the Revised Municipal Code of the City of West Allis, for an outdoor extension of premise to the existing restaurant at 8340 W. Beloit Rd.; and,

WHEREAS, the Common Council, having carefully considered the evidence presented at the public hearing and the following pertinent facts noted:

1. Chris Paul and Abby Paul, d/b/a Capri Di Nuovo, has offices at 8340 W. Beloit Rd., West Allis, WI 53219.
2. The property is owned by Mider Properties, 429 Edgewood Ave., Elkhorn, WI 53121, and is located at 8340 W. Beloit Rd., West Allis, Milwaukee County, Wisconsin, more particularly described as follows, to-wit:

All the land of the owner being located in the Southwest ¼ of Section 9, Township 6 North, Range 21 East and Southeast ¼ of Section 34, Township 7 North, Range 21 East City of West Allis, Milwaukee County, Wisconsin, described as follows:

Lot 11 and vacated public service street adjoining said Lot 11, in Block 1 of the Spruce Manor subdivision.

Tax Key No. 516-0205-000

Said land being located at 8340 W. Beloit Rd.

3. The aforesaid premise is zoned C-3 Community Commercial District under the Zoning Ordinance of the City of West Allis, which permits restaurants and outdoor dining with extension of premise as a special use, pursuant to Sec. 12.16 and Sec. 12.42(2) of the Revised Municipal Code.
4. The applicant is proposing to establish an outdoor patio area of approximately 900 square feet, with a fireplace, for outdoor dining at 8340 W. Beloit Rd. The patio will abut the existing building facing west to S. 84th St.
5. The subject property is located on the southeast corner of W. Beloit Rd. and S. 84th St., which is zoned for commercial purposes. Properties to the north and east are developed as residential. Properties

to the south are developed as commercial and residential. The property to the west is used as a church.

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 Chris Paul and Abby Paul, d/b/a Capri Di Nuovo, 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.

NOW, THEREFORE 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, screening and architectural plans approved by the West Allis Plan Commission on July 22, 2015. No alterations or modification to the approved plan shall be permitted without approval by the West Allis Plan Commission.
2. Building Plans, Fire Codes and Licenses. 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. Any applicable 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. Off-Street Parking. In accordance with Sec. 12.19 of the Revised Municipal Code, at least nineteen (19) parking spaces shall be provided, including 1 ADA space.
4. Hours of Operation. With the approval of this special use, Common Council grants the following:

The hours of operation for the use shall be:
 - A. Restaurant - Seven days a week from 10:00 a.m. till 11:00 p.m.
 - B. Outdoor Patio/Extension of Premise - the patio area shall be closed between 11:00 p.m. and 10:00 a.m.
5. Operations:
 - A. Excessive odors from cooking on premises shall not emanate from the building.
 - B. Excessive noise and vibrations shall not emanate from the building.
 - C. Employees shall inspect the site and immediate vicinity and pick up litter on a daily basis.

- D. Exterior pest control shall be contracted on a monthly basis.
- E. Special events to be authorized by the Common Council.
- F. A food establishment under RMC Section 7.04.
- 6. Refuse Collection. To be provided by a commercial hauler. If stored outside, all refuse, recyclables and other waste material shall be screened from view within an approved 4-sided enclosure.
- 7. Signage. Compliance with the West Allis signage ordinance.
- 8. 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.
- 9. 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.
- 10. 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 a four-sided enclosure or as approved by the Department of Development to match the building. 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 is a 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.
- 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. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light splays from the property boundaries.
- 13. 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.
- 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. Noise. All exterior doors and windows of the establishment will be closed to prevent excess noise from penetrating the adjacent neighborhood. The outdoor area/patio will be closed in accordance with the hours of operation approved by the Common Council.
- 16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

Chris Paul and Abby Paul d/b/a Capri Di Nuovo

Mailed to applicant on the
4th day of August, 2015

Monica Schultz
City Clerk

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

ZON-R-1004-8-4-15

ADOPTED August 4, 2015

Monica Schultz

Monica Schultz, City Clerk

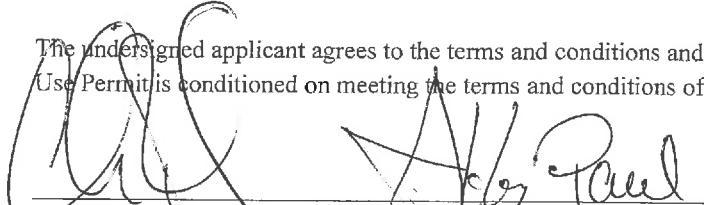
APPROVED 8/4/15

Dan Devine


Dan Devine, Mayor

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Chris Paul and Abby Raul d/b/a Capri Di Nuovo

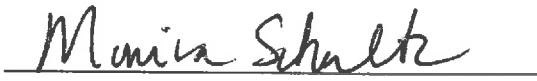
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Monica Schultz, City Clerk

APPROVED 8/14/15


Dan Devine, Mayor