



City of West Allis

7525 W. Greenfield Ave.
West Allis, WI 53214

Resolution

File Number: R-2012-0034

Final Action:

Sponsor(s): Safety & Development Committee

MAR 06 2012

Resolution relative to determination of Special Use Permit for the proposed construction of Dunkin Donuts, a restaurant with drive-thru facilities, to be attached to the Applebee's Restaurant, to be located at 2871 S. 108 St.

WHEREAS, John Clark, d/b/a Zee Realty Group 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, to establish a Dunkin' Donuts restaurant with drive-thru and outdoor dining at 2871 S. 108 St.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on March 6, 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, John Clark, d/b/a Zee Realty Group, has offices at 414 Main St., Watertown, MA 02472.
2. The applicant will be building a 2,300 sq. ft. addition and leasing a portion of the property at 2871 S. 108 St., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All the land of the owner being located in the Northeast $\frac{1}{4}$ and 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:

Commencing at the Northeast corner of said Northeast $\frac{1}{4}$ of Section 7; thence Southerly, 1189.34 feet, along the east section line of said Section 7; thence Westerly, 60.00 feet to the West right-of-way line of South 108th Street and Point of Beginning; thence Westerly, 170.00 feet; thence Northerly, 12.66 feet; thence Westerly, 8.00 feet; thence Southerly, 130.00 feet; thence Westerly, 112.00 feet; thence Southerly, 189.15 feet; thence Easterly, 269.00 feet; thence Northerly, 23.00 feet; thence Easterly, 21.00 feet, to the West right-of-way line of South 108th Street; thence Northerly, 283.49 feet, along said West right-of-way line to the Point of Beginning.

Tax Key No. 520-9965-012

Said land located at: 2871 S. 108 St.

3. The applicant is proposing to establish an approximate 2,300 square foot addition for Dunkin' Donuts onto the existing Applebee's restaurant. Dunkin' Donuts will establish a drive-thru and outdoor dining use on the site.
4. The aforesaid premises is zoned C-4 Regional Commercial District under the Zoning Ordinance of the City of West Allis, which permits restaurants 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 uses. Properties to the north, south, east and west are developed for commercial uses.
6. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area as the property offers off-street parking and is served by public transit.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of John Clark, d/b/a Zee Realty Group., to establish a restaurant with drive-thru and outdoor dining at 2871 S. 108 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 Secs. 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 February 22, 2012, 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 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 permitted to be used for dine-in, carry-out, drive-thru and outdoor dining as shown on the approved set of plans.
4. Restaurant Operations:
 - A. All exterior doors shall be kept closed to prevent sound/noise emissions into the adjacent neighborhood.
 - B. Excessive odors from cooking on premises shall be controlled within limits of current

technology.

C. Excessive noise and vibrations shall not emanate from the building.

D. Employees shall inspect the site and immediate vicinity and pick up litter on a daily basis.

E. Exterior pest control shall be contracted on a monthly basis.

5. Hours of Operation. The hours of operation will be from 5:00 a.m. to 10:00 p.m., seven days per week.

6. Off-Street Parking. A total of 71 spaces are required on site (this includes the 55 stalls required by Applebee's). 114 parking spaces are provided (includes Applebee's). Calculations have been calculated using a parking ratio of 1 parking stall required for every 150 gross sq. ft. in accordance with Sec. 12.19 of the Revised Municipal Code.

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 4-sided structure to match the building.

9. Window Signage. Any building window signage shall not exceed twenty (20) percent of each window's area.

10. 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.

11. Refuse Collection. Refuse collection to be provided by commercial hauler and stored within a four-sided enclosure large enough to accommodate all outdoor storage of refuse and recyclable containers and/or compactor.

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

13. 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.

14. 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.

15. Noxious Odors, Etc. The use 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

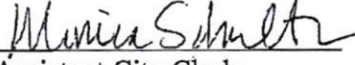
21. Acknowledgement. That the applicants sign an acknowledgment that he has received these terms and conditions and will abide by them.

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.

 3/16/2012
John Clark, d/b/a Zee Realty Group


Mailed to applicants on the

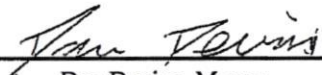
12th day of March, 2012


Assistant City Clerk

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

ZON-R-856-3-6-12

ADOPTED MAR 06 2012

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

APPROVED 3/9/12

Dan Devine, Mayor

**CITY OF WEST ALLIS,
NOTICE OF HEARING
Tuesday, March 6, 2012,
7:00 P.M.**

NOTICE IS HEREBY GIVEN that the Common Council of the City of West Allis will conduct a public hearing on Tuesday, March 6, 2012 at 7:00 P.M., or as soon thereafter as the matter may be heard, in the Common Council Chambers of West Allis City Hall, 7525 W. Greenfield Avenue, West Allis, Wisconsin on the Special Use Permit for the proposed construction of Dunkin Donuts, a restaurant with drive-thru facilities, to be attached to the Applebee's Restaurant, to be located at 2871 S. 108 St.

You may express your opinions in writing to the City Clerk prior to the meeting or orally at such public hearing.

Dated at West Allis, Wisconsin, this 8th Day of February 2012.

12H10

/s/ Paul M. Ziehler,
City Administrative Officer,
Clerk/Treasurer

PUBLISH: February 16, 2012 and
February 23, 2012

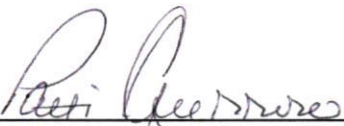
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Patti Guerrero hereby states that she is authorized by Journal Communications Inc. to certify on behalf of Journal Community Publishing Group, publisher of Community Newspapers, public newspapers of general circulation, printed and published in city and county of Milwaukee; was published in the My Community Now- Midwest on **2/16/2012 and 2/23/2012**; that said printed copy was taken from said printed newspaper(s).



Patti Guerrero

State of Wisconsin)
) SS:
County of Milwaukee)

Subscribed and sworn before me this 27 day of Feb, 2012.



Notary Public State of Wisconsin

My Commission Expires 1.25.15

