



City of West Allis

Resolution: R-2019-0376

File Number: R-2019-0376

Final Action: 8/6/2019

Sponsor(s): Safety & Development Committee

Resolution relative to determination of Application for Special Use Permit to establish alcohol beverage (Class A) sales at the existing fuel station located at 10537 W. Greenfield Ave.

WHEREAS, Spring West LLC, d/b/a Pantry 41, 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 of the City of West Allis, to obtain a Class A License for alcohol beverage sales within the existing gas station convenience store use located at 10537 W. Greenfield Ave.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on July 16, 2019 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, Spring West LLC, d/b/a Pantry 41, owns the fuel and convenience store located at 10537 W. Greenfield Ave. and has applied for a Class A license to sell packaged alcohol beverages for off-site consumption. Alcohol beverage sales are a Special Use within the subject C-3, Community Commercial Zoning District. The property is also operating under a previously approved site, landscaping and architectural plan.
2. The existing 3,866 sq. ft. building, of which approximately 2,000 sq. ft. is occupied by Pantry 41, is situated on a 0.384-acre property. The subject property is located at 10537 W. Greenfield Ave. in the City of West Allis, Milwaukee County, Wisconsin, more particularly described as follows, to-wit:

All the land of the owner being located in the Northwest $\frac{1}{4}$ of Section 5, Township 6 North, Range 21 East, City of West Allis, Milwaukee County, State of Wisconsin, describes as follows:

East 220.00 feet of the West 736.25 feet of the North 138.24 feet of the Northwest $\frac{1}{4}$ of said Section 5, subject to the rights of the owners adjacent to the east, due to the overlapping deed description.

Tax Key No. 449-9984-000

3. The subject property is operating under a previously approved site, landscaping and architectural plan.
4. The subject property is located along a commercial corridor of W. Greenfield Ave., east of Hwy. 100. Properties to the north are developed as commercial and residential. Properties to the south, east and west are developed as commercial and industrial.
5. 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 Spring West LLC, d/b/a Pantry 41, to obtain a Class A license for alcohol beverage sales within the existing fuel and convenience store located at 10537 W. Greenfield Ave., West Allis, 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, landscaping and architectural plans approved by the West Allis Plan Commission on June 22, 2005, including a subsequent lighting amendment approved on January 5, 2006. 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 Neighborhood Services and by the Fire Department. All applicable State and local licenses being applied for and approved. Occupant capacity shall be in accordance with limits of occupancy load calculations as approved by Building Inspection and the Fire Department.

3. Off-Street Parking. In accordance with Sec. 12.19 of the Revised Municipal Code, a total of 7 parking spaces are required for the existing use and will be provided on site.

4. Operations: Existing 2,000-sf fuel station convenience store:

Hours of Operation: 24 hours per day - seven days per week

Class A License Sales: 8am until 9pm (locked after sales hours) Sales area - up to 11% of floor area

5. Signage. Compliance with the West Allis signage ordinance. Window signage shall not exceed 20% of each window area and be located internally. Any lighting elements shall be indicated on a lighting plan and subject to review and approval by the Department of Development. Lighting shall not splay beyond the property limits.

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. 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 Plan Commission. Refuse, recyclables, grease, and other waste materials will be fully enclosed within an approved structure.

8. Noise Control. The grant of this special use is conditioned upon compliance with Section 7.035 of the West Allis Municipal Code.

9. Monitoring. The site shall be monitored by staff to prevent loitering activity. The property owner shall coordinate with the West Allis Police Department as toward applicable preventative and enforcement solutions including video surveillance.

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

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 beyond 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. 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 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.

Satwinder Singh

Satwinder Singh, Spring West LLC, d/b/a Pantry 41, property owner

Mailed to applicant on the
13 day of August, 2019

SAB

City Clerk

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

ZON-R-1192-8-6-19 (Version 2)

ADOPTED AS AMENDED 8/6/2019

APPROVED AS AMENDED 8/9/19

SAB

Steven A. Braatz, Jr., City Clerk

Dan Devine

Dan Devine, Mayor