



City of West Allis

Legislation Details (With Text)

File #: R-2003-0297 **Version:** 1
Type: Resolution **Status:** Adopted
File created: 10/7/2003 **In control:** Safety and Development Committee (INACTIVE)
On agenda: **Final action:** 10/7/2003

Title: Resolution relative to denial of a Transitional Use Application submitted by Efstathios Sidirokrastitis, d/b/a Greek Island Restaurant, formerly Mega Restaurant, located at 7727 W. Greenfield Ave. to construct a commercial parking lot on residentially zoned property at 1420 S. 78 St.

Sponsors:

Indexes:

Code sections:

Attachments: 1. R-2003-0297 signed, 2. R-2003-0297

Date	Ver.	Action By	Action	Result
10/7/2003	1	Common Council		
10/7/2003	1	Common Council	Adopted	Pass
10/7/2003	1	Safety and Development Committee (INACTIVE)		Pass

Resolution relative to denial of a Transitional Use Application submitted by Efstathios Sidirokrastitis, d/b/a Greek Island Restaurant, formerly Mega Restaurant, located at 7727 W. Greenfield Ave. to construct a commercial parking lot on residentially zoned property at 1420 S. 78 St.

WHEREAS, Efstathios Sidirokrastitis, d/b/a Greek Island Restaurant, duly filed with the City Administrative Officer-Clerk/Treasurer an application for a Transitional Use Permit, pursuant to Sec. 12.36(2) and 12.31(2) of the Revised Municipal Code, to permit the expansion of a parking lot for twelve (12) vehicles on the vacant lot zoned RB-2 residential located at 1420 S. 78 St. (former residential dwelling); and,

WHEREAS, after due notice, a public hearing was held by the Common Council on October 7, 2003, at 7:00 p.m., in the Common Council Chambers to consider the application; and,

WHEREAS, the following pertinent facts are noted:

1. The applicant, Efstathios Sidirokrastitis, d/b/a Greek Island Restaurant, resides at 4751 S. Packard Avenue, Cudahy, WI 53110-3110.
2. The applicant holds an offer to purchase certain land situated on the south side of W. Greenfield Ave., in the City of West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

Lots 30, 31, 32, 33, 34, 35 and 36, Block 2, Greenfield Heights, being a subdivision located in the Northeast 1/4 of Section 4, Township 6 North, Range 21 East, in the City of West Allis, County of Milwaukee, State of Wisconsin.

Said land being located at 7727 W. Greenfield Ave. and at 1420 S. 78 St.
TAX KEY NO.: 452-0052-002 and 452-0048-000

Lots 30 and 31, Block 2, Greenfield Heights, being a subdivision located in the Northeast 1/4 of Section 4, Township 6 North, Range 21 East, in the City of West Allis, County of Milwaukee, State of Wisconsin.

Said land being located at 1420 S. 78 St. (applies to Transitional Use Permit)
TAX KEY NO.: 452-0048-000

3. The Common Council denied an identical Transitional Use Permit application for said premises on November 20, 2001, and again August 6, 2002. The City's denial of the August 6, 2002, application was appealed to the Milwaukee County Circuit Court. The Milwaukee County Circuit Court affirmed the decision of the Common Council on July 7, 2003.

4. The Property is zoned C-2 Neighborhood Commercial District which permits parking lots as a transitional use pursuant to Section 12.36(2) and 12.31(2) of the Revised Municipal Code.

5. The applicant has proposed to expand the existing parking lot to the south. Twelve (12) parking stalls would be provided in the former location of a residential dwelling (demolished) at 1420 S. 78 St.

6. The proposed parking lot site located at 1420 S. 78 St. is 60 ft. x 120 ft. or 7,200 square feet (.165 acres). The lot will consist of the following: a 42 foot wide x 120 foot long paved surface, and a 20 foot wide x 120 foot long terraced landscaping bed and masonry retaining walls.

7. The property is located on the south side of W. Greenfield Ave. Properties to the south are developed as residential. Properties to the east and west are residential and commercial and properties to the north are developed as commercial (State Fair Park).

WHEREAS, the Common Council, being fully advised in the premises, finds that the conditions set forth in Section 12.16(8)(a), Section 12.16(8)(b) and Section 12.31(2) of the Revised Municipal Code are not present, specifically,

Section 12.16(8) (a) That the establishment, maintenance or operation of the transitional use will not be detrimental or endanger the public health, safety, morals, comfort or general welfare and will not otherwise conflict with the purpose and intent of this Subchapter.

Section 12.16(8) (b) That 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 transitional use.

Section 12.31(2) The permit will be issued only after the Common Council has determined that the use will not adversely affect the public health, safety and welfare.

These findings are based upon the following reasons:

1. The site is not appropriate for a parking lot. The proposed site for parking area is surrounded on three sides by residential development. Adding an additional parking lot area would over intensify the residentially

zoned site by adding twelve (12) commercial parking stalls, creating an aesthetically unpleasing condition and would diminish the value and enjoyment of neighboring residential properties.

2. Consistency of public policy in accordance with the November 20, 2001 and again on August 6, 2002, Common Council's decisions (Resolution No. 26968 and Resolution No. 27170) and the July 7, 2003, Milwaukee County Circuit Court decision (Case No. 02-CV-009457).
3. Adequate parking has been provided through lease of State Fair Property.

WHEREAS, the Milwaukee County Circuit Court's decision (Case No. 02-CV-009457) affirmed the West Allis Common Council's November 20, 2001, and August 6, 2002 decisions (Resolution No. 26968 and Resolution No. 27170) as being supported by substantial evidence and based upon the correct theory of law. The court noted the following findings for supporting the Common Council's decision:

1. Although the Common Council based its findings on Sec. 12.16(8)(a)(b), approval standards for a special use, this does not necessarily require that the court reverse its decision of the Common Council. The Common Council essentially satisfied a higher burden than it needed to.
2. The Common Council had credible evidence to support its decision and its concern falls squarely within the factors identified in Sec. 12.31(2) of the Revised Municipal Code. The Common Council concluded that in light of the overall impact of the proposed transitional use, the positive aspects of expanding the parking lot (i.e. 12 additional off-street parking spaces) were not enough to overcome the other negative aspects that would adversely affect the health, safety and welfare (i.e. diminishing the value and enjoyment of the neighboring residential properties).

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Efstathios Sidirokrastitis, d/b/a Greek Island Restaurant, for transitional use be and is hereby denied.

BE IT FURTHER RESOLVED that the application shall not be resubmitted for a period of one year from the date of said denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Common Council.

Mailed to applicant on the
day of , 2003

Assistant City Clerk

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

ZON-R-402\10-7-03\jmg