



# City of West Allis

## Legislation Details (With Text)

**File #:** R-2012-0208 **Version:** 3

**Type:** Resolution **Status:** Adopted

**File created:** 11/5/2012 **In control:** Safety and Development Committee (INACTIVE)

**On agenda:** 11/5/2012 **Final action:** 11/5/2012

**Title:** Resolution relative to determination of Special Use Permit to establish a commercial and residential mixed-use within the existing building located at 1439 S. 70 St.

**Sponsors:** Safety and Development Committee (INACTIVE)

**Indexes:**

**Code sections:**

**Attachments:** 1. Resolution.signed, 2. Affidavit

Date	Ver.	Action By	Action	Result
11/5/2012	1	Common Council		
11/5/2012	1	Safety and Development Committee (INACTIVE)		
11/5/2012	1	Common Council		
11/5/2012	3	Safety and Development Committee (INACTIVE)		Pass
11/5/2012	3	Common Council	Adopted As Amended	Pass

Resolution relative to determination of Special Use Permit to establish a commercial and residential mixed-use within the existing building located at 1439 S. 70 St.

WHEREAS, David Brunner, property owner, duly filed with the City Administrative Officer-Clerk/Treasurer an application for a special use permit, pursuant to Sec. 12.41(2), Sec. 12.49 and Sec. 12.16 of the Revised Municipal Code, to reactivate a vacant first floor commercial space to be used for sales of inspirational items, plants, and small pets, along with pet grooming services within a mixed-use building located at 1439-41 S. 70 St.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on November 5, 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, David Brunner, property owner, has offices at 1439 S. 70 St. West Allis, WI 53214.
2. The applicant owns the property at 1439-41 S. 70 St., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All that land of the owner being located in the Northwest ¼ of Section 3, Township 6 North, Range 21 East, City of West Allis, Milwaukee County, State of Wisconsin describes as follows:

Lot 21 in Block 4 of Central Improvement Co. Subdivision No. 1, except North 1.50 feet.

Tax Key No. 453-0052-000

Said land is located at 1439-41 S. 70 St.

3. The applicant/ owner of the property at 1439-41 S. 70 St., proposes to establish a mixed use (commercial/residential) occupancy by reactivating a vacant first floor commercial space to be used for sales of inspirational items, plants, and small pets within a mixed-use building. The mixed use proposal is triggering the special use.

The first floor commercial space consists of approximately 1,575 sq. ft. of space to be used for a retail space, a pet grooming area, office and storage space. The basement is proposed to consist of approximately 1,400 sq. ft. of space split between restrooms and storage space. The residential space on the 2<sup>nd</sup> floor consists of two apartments, (1) 1-bedroom unit and (1) 2-bedroom unit. No animal breeding or reproduction is proposed to take place at this location. If animal sales are to take place from this location all applicable federal, state and local licenses shall first be obtained by the business.

4. The aforesaid premises is zoned C-2 Neighborhood Commercial District under the Zoning Ordinance of the City of West Allis, which permits mixed residential and commercial uses as a special use, pursuant to Sec. 12.41(2), Sec. 12.49 and Sec. 12.16 of the Revised Municipal Code.

5. The subject property is located along the west side of S. 70 St. between W. Greenfield Ave. and W. Lapham Ave. Properties to the north and south are developed as a mix of residential and small commercial spaces. Properties to the west are developed as single and two-family residential and properties to the east are developed as high-density residential.

6. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area as there is ample on street parking in the area along the commercial corridor.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of David Brunner, property owner, for a proposed mixed residential and commercial use, 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. 12.41(2), Sec. 12.49 and Sec. 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 24, 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.

- a. The Plan Commission recommended Council approval of the mixed special use.
- b. The Plan Commission recommended that Chapter 7/Health and 12/Zoning of the municipal code relative to prohibited animals and pet shops, kennels and grooming establishments, be re-evaluated, as fairness in the code is needed to properly regulate animal related uses in permitted zoning districts.
- c. A letter of understanding from the tenant indicating that animal reproduction will not be conducted on site.

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. Off-street Parking. A total of ten (10) parking spaces are required (including one handicap accessible stall), and one (1) stall will be provided on site between the garage and the alley .

4. Commercial Business Operations.

- A. All exterior doors shall be kept closed to prevent sound/noise emissions into the adjacent neighborhood.

- B. Excessive noise and vibrations shall not emanate from the building.
  - C. Exterior pest control shall be contracted on a monthly basis.
  - D. No breeding or reproduction of animals shall take place on site.
5. Litter. Employees shall inspect the site and immediate vicinity and pick up litter on a daily basis.
6. Deliveries and Refuse Collection. All Refuse collection to be provided by commercial hauler and stored within a four-sided enclosure large enough for all outdoor storage of refuse and recyclable containers as 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 9:00 p.m. and 7:00 a.m.

7. 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.
8. Pagers, Intercoms. The use of outdoor pagers, intercoms, or loud speakers shall not be permitted on site.
9. Monitoring. The area shall be adequately monitored by staff.
10. Window Signage. Any building window signage shall not exceed twenty (20) percent of each window's area.
11. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light splays from the property boundaries.
12. 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.
13. 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.
14. 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.
15. 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.

16. 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.

17. 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.

18. 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.

---

David Brunner, property owner

Mailed to applicants on the

\_\_\_\_\_ day of \_\_\_\_\_, 2012

---

Assistant City Clerk

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

ZON-R-892-amd3-11-5-12-bjb