



City of West Allis

Legislation Details (With Text)

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On agenda: **Final action:** 2/16/2010
Title: Resolution relative to determination of Special Use Permit for CiCi's Pizza, to be located within the Shoppes on 100 multi-tenant commercial building located at 2923-27 S. 108 St.
Sponsors: Safety and Development Committee (INACTIVE)
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Date	Ver.	Action By	Action	Result
2/16/2010	1	Common Council		
2/16/2010	1	Safety and Development Committee (INACTIVE)		
2/16/2010	1	Common Council		
2/16/2010	2	Safety and Development Committee (INACTIVE)		Pass
2/16/2010	2	Common Council	Adopted As Amended	Pass

Resolution relative to determination of Special Use Permit for CiCi's Pizza, to be located within the Shoppes on 100 multi-tenant commercial building located at 2923-27 S. 108 St.

WHEREAS, Paul Tate, d/b/a Rally Pizza, LLC, d/b/a CiCi's Pizza 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 restaurant within the Shoppes on 100 multi-tenant commercial building; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on February 16, 2010, at 7:00 p.m., in the Common Council Chamber 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, Paul Tate, d/b/a Rally Pizza, LLC, d/b/a CiCi's Pizza, resides at S77 W16552 Bridgeport Way, Muskego, WI 53150.
2. The applicant has a valid offer to lease 2923 and 2927 S. 108 St., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All the land of the owner being located in the 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:

Parcel 2 of Certified Survey Map No. 7469.

Tax Key No. 520-1002-000

Said land being located at 2923-39 S. 108 St.

3. The applicant is proposing to establish a restaurant with dine in and carryout services in a portion of the Shoppes on 100 multi-tenant commercial building.
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 located on the west side of S. 108 St., between W. National Ave. and W. Oklahoma Ave. Properties to the north, east, south and west are developed as commercial.
6. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Paul Tate, d/b/a Rally Pizza, LLC, d/b/a CiCi's Pizza, to establish a restaurant within the Shoppes on 100 multi-tenant commercial building, 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:

- 1a. Site, Landscaping, Screening, Signage and Architectural Plans. The grant of this special use permit is subject to and conditioned upon the site, landscape and screening plans approved on January 27, 2010, 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.
- 1b. Master Signage Plan. The property is under Plan Commission approval of a Master Sign Plan. Any new signage shall comply with approved regulations.
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 Neighborhood Services and by the Fire Department.
3. Restaurant Area. The floor area for the restaurant will consist of approximately 3,600 square feet of area within the Shoppes on 100 multi-tenant commercial building.
4. Hours of Operation. The hours of operation will be 10:00 a.m. - 11:00 p.m., seven days/week.
5. Restaurant Operations.
 - A. Excessive odors from cooking on premises shall be controlled within limits of current technology.
 - B. All exterior doors shall be kept closed to prevent sound/noise emissions into the adjacent neighborhood.
 - C. Refrigerator/cooler addition shall locate condensers within the existing building
 - D. Excessive noise and vibrations shall not emanate from the building.
 - E. Employees shall inspect the site and immediate vicinity and pick up litter on a daily basis.
6. Outdoor Dining Area. Outdoor dining shall be permitted at the northeast corner of the building, just in front of the 2923 S. 108 St. tenant space.

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. 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.
8. Noxious Odors. The restaurant shall not emit foul, offensive, noisome, noxisome, oxious or disagreeable odors, gases or effluvia into the air. Mechanical systems shall be maintained to efficiently remove noxious odors.
9. Off-Street Parking. Twenty-four (24) parking stalls are required for the proposed restaurant and 53 parking spaces are required for the remaining uses on the entire Shoppes on 100 multi-tenant commercial complex, which entails two (2) parcels, for a total of 77 required on-site parking spaces. A total of 115 parking spaces are provided on the two (2) combined parcels.
10. Outdoor Storage. No outdoor storage shall be permitted on site. No vehicle advertising (advertising on vehicles) shall be permitted on site.
11. Litter. Employees shall inspect the area and immediate vicinity and pick up litter on a daily basis.
12. Window Signage. Any building window signage shall not exceed twenty (20) percent of each window's area.
13. Marketing Displays. The use of pennants/flags has been previously approved by the Plan Commission. Any modifications shall be approved by the Plan Commission.
14. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light spays from the property boundaries.
15. 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.
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. Applicant is 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 applicant's 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. 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.

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.

Paul Tate, d/b/a Rally Pizza, LLC, d/b/a CiCi's Pizza

Mailed to applicant on the
_____ day of _____ 2010

Assistant City Clerk

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

ZON-R-745-2-16-10