



# City of West Allis

## Legislation Details (With Text)

**File #:** R-2011-0149 **Version:** 2

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

**File created:** 6/21/2011 **In control:** Safety and Development Committee (INACTIVE)

**On agenda:** 6/21/2011 **Final action:** 6/21/2011

**Title:** Resolution relative to determination of Special Use Permit to establish a CVS Pharmacy with a drive-through within the Riverbend Shopping Center located at 7500-22 W. Oklahoma Ave.

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

**Indexes:**

**Code sections:**

**Attachments:** 1. R-2011-0149 Packet Doc

| Date      | Ver. | Action By                                   | Action             | Result |
|-----------|------|---|--------------------|--------|
| 6/21/2011 | 1    | Common Council                              |                    |        |
| 6/21/2011 | 1    | Safety and Development Committee (INACTIVE) |                    |        |
| 6/21/2011 | 1    | Common Council                              |                    |        |
| 6/21/2011 | 2    | Safety and Development Committee (INACTIVE) |                    | Pass   |
| 6/21/2011 | 2    | Common Council                              | Adopted As Amended | Pass   |

Resolution relative to determination of Special Use Permit to establish a CVS Pharmacy with a drive-through within the Riverbend Shopping Center located at 7500-22 W. Oklahoma Ave.

WHEREAS, Michael Haaning of Gershman Brown Crowley, Inc., on behalf of CVS Pharmacy duly filed with the City Administrative Officer-Clerk/Treasurer an application for a special use permit, pursuant to Sec. 12.42 (2) and Sec. 12.16 of the Revised Municipal Code, to establish a drive-thru pharmacy for CVS Pharmacy within a portion of the River Bend Shopping Center; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on June 21, 2011, 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, Michael Haaning of Gershman Brown Crowley, Inc. agent for CVS, has offices at One CVS Drive, Woonsocket, RI 02895.
2. The owners, Campbellsport LLC and OMRO PW LLC have offices at 1564 W. Algonquin Rd. Hoffman Estates, IL 60192. The owners of River Bend will lease a portion of the shopping center to CVS located at 7500-52 W. Oklahoma Ave., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All the land of the owner being located in the Southwest ¼ of Section 10, Township 6 North, Range 21 East and Southeast ¼ of Section 34, Township 7 North, Range 21 East City of West Allis, Milwaukee County,

Wisconsin, described as follows:

All of the Block 3 of Honey Creek Parkway Estates and adjoining vacated public service street on the south side of said Block 3.

Tax Key No. 515-0124-000

Said land being located at 7500-52 W. Oklahoma Ave.

3. The applicant is proposing to establish an approximately 13,300 square foot retail store with drive-thru pharmacy window for CVS Pharmacy in a portion of the River Bend Shopping Center. While the drug store/pharmacy is a permitted use, the drive-thru feature requires special use consideration.

4. The aforesaid premises is zoned C-3 Community Commercial District under the Zoning Ordinance of the City of West Allis, which permits businesses with drive-thru services as a special use, pursuant to Sec. 12.42(2) and Sec. 12.16 of the Revised Municipal Code.

5. The subject property is part of a block along the north side of W. Oklahoma Ave. between S. 74 St. and S. 76 St., which is zoned for commercial purposes. Properties to the north are developed for residential. Properties to the east are developed as residential and commercial. Properties to the south are developed as commercial and are located within the City of Milwaukee. Properties to the west are developed as Milwaukee County Park and Open Space.

6. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area. The space to be leased by CVS was formerly a video store. A portion of an existing auto parts store will be demolished and become part of the drive-thru space. The property is serviced by public transit.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Michael Haaning of Gershman Brown Crowley, Inc., on behalf of CVS Pharmacy, to establish a CVS Pharmacy with a drive-thru pharmacy window within the River Bend Shopping Center, 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, Architectural and Signage Plans. The grant of this special use permit is subject to and conditioned upon approval of the site, landscaping and screening, and architectural and signage plans approved at the May 25, 2011 meeting 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. Drive-thru Intercom. The audible level of the drive-thru intercom/speaker shall be limited and adjustable so as not to create a nuisance with adjacent residential uses. Non-drive-thru use of outdoor pagers, intercoms, or loud speakers shall not be permitted on site.

3. 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.

4. Hours of Operation. CVS will be open daily from 6:00 a.m. to 11:00 p.m., 7 days per week.
5. Licenses and Permits. Subject to applicant obtaining all required Local and State of Wisconsin licenses and permits.
6. Lighting. The grant of this special use is subject to all lightning fixtures being orientated and/or shielded in such a manner that no light spills from the property boundaries.
7. Parking. Parking for 192 spaces are required for the overall property. This total includes the 43 spaces required for the CVS store. A total of 180 parking spaces will be provided on site. Common Council may modify the parking requirement per Sec. 12.16(9) of the Municipal Code on the basis that the proposed use will not increase traffic congestion or reduce traffic safety.
8. Litter and Monitoring. Employees shall inspect the site and immediate vicinity and pick up litter on a daily basis. Refuse, recyclables, and other waste materials for the CVS Building will be fully enclosed within an approved 4-sided enclosure.
9. Outdoor Storage and Display. No other outdoor storage, sales, or display of merchandise shall be permitted on site, except a locked propane tank enclosure will be stored outside the building's east elevation or such alternative location as agreed to and approved by CVS and City Planning Staff.
10. Window Signage. Any building window signage shall not exceed twenty (20) percent of each window's area. Such signage shall be reviewed/approved by the Department of Development prior to installation and affixed to the interior of the window and shall not flash.
11. 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.
12. Deliveries and Refuse Collection. All refuse to be provided by a commercial hauler. All refuse, recyclables and other waste material shall be screened from view within an enclosure 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.
13. 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.
14. 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, abutting sidewalk.
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 (drive-thru service) 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, the special use (drive-thru service) may be terminated.

19. 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.

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.

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Michael Haaning or agent on behalf of CVS

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Mark Lambert as Manager of Campbellsport LLC and OMRO PW LLC

Mailed to applicant on the  
\_\_\_\_ day of \_\_\_\_\_, 2011

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Assistant City Clerk

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

ZON-R-822-6-21-11