



City of West Allis

Legislation Text

File #: R-2004-0350, **Version:** 1

Resolution relative to determination of Special Use Application to expand the drive-through hours of operation to 24 hours daily and to add an additional point-of-sale location within the existing drive-through lane at the existing McDonald's Restaurant located at 8301 W. Greenfield Ave.

WHEREAS, McDonald's Corporation, through its representative, Mary Beth Motisi, 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 expand the drive-through hours of operation to 24 hours daily and to add an additional point-of-sale location within the existing drive-through lane at the existing McDonald's Restaurant located at 8301 W. Greenfield Ave.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on December 21, 2004, 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, Mary Beth Motisi, on behalf of the McDonald's Corporation, has offices at W275 N1891 Cabin Creek Ct., Pewaukee, WI 53072.
2. The applicant, McDonald's Corporation, owns the property at 8301 W. Greenfield Ave., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

That portion of lands in the Northwest 1/4 of 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, more particularly described as follows:

Commencing at the north 1/4 corner of said Section 4; thence North 88°07'04" East along the north line of the Northeast 1/4 of said Section 4, 310.21 feet; thence South 01°52'56" East 33.00 feet to a point on the south right-of-way of West Greenfield Avenue (STH 59) and the point of beginning of lands to be described; thence North 88°07'04" East along said south line 123.10 feet; thence South 01°16'22" East 277.63 feet; thence South 88°05'51" West 153.10 feet; thence North 01°16'22" West 224.68 feet; thence North 88°07'04" East 30.00 feet; thence North 01°16'22" West 53.00 feet to the point of beginning.

Tax Key Number: 451-0644-004

Said land being located at 8301 W. Greenfield Ave.

3. The applicant is requesting to expand the drive-through hours of operation to 24 hours daily, based on the following:

- A. There are no abutting residential properties. The distance to the nearest residential property is 162 ft.
 - B. The property immediately to the east, formerly Mykonos Restaurant, operated 24 hours/day.
 - C. The neighborhood immediately to the south is Milwaukee Grey Iron, a manufacturing facility that operates three shifts/day.
 - D. The manager of McDonald's reports that there has been no significant frequency of police calls to the restaurant during her tenure.
 - E. West Greenfield Avenue is not a cruising-impacted street.
4. The aforesaid premises is zoned C-3 Community Commercial District under the zoning ordinance of the City of West Allis, which permits the location of a restaurant with drive-through as a special use, pursuant to Sec. 12.42(2) of the Revised Municipal Code.
 5. The property is serviced by all necessary public utilities.
 6. The subject property is part of a block between S. 82 St. and S. 84 St. on the south side of W. Greenfield Ave., which is zoned for commercial purposes. Properties to the north are developed as the Wisconsin State Fair Park, properties to the south are developed for manufacturing and properties to the east and west for commercial.
 7. The applicant has proposed certain operating restrictions to assuage concerns relating to hours of operation.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that McDonald's Corporation, be and is hereby granted a special use for the proposed extension hereinabove described 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 and Section 12.42(2) 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 Signage Plans. The grant of this special use permit is subject to and conditioned upon the site, landscape, screening and signage plans approved by the City of West Allis Plan Commission on December 8, 2004, 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. Hours of Operation. Hours during school year are as follows: The restaurant will be open from 6:00 a.m. to 11:00 p.m., Monday through Thursday, and will be open from 6:00 a.m. to 12:00 p.m. on Friday and Saturday. The restaurant will be open Sunday from 7:00 a.m. to 11:00 p.m. Hours during summer (April to September) are as follows: Dining room from 5:00 a.m. to 12:00 p.m. (midnight) daily. The drive through operation will be open 24 hours daily, year round.

3. Drive-through Window Service. The City of West Allis, by official action of the Common Council, may revoke the authorization for the applicant to have its drive-through window service open 24 hours daily if there are significant law enforcement complaints. This revocation may be done on 72 hours' notice, with applicant required to cease 24-hour drive-through operation within 3 days of Common Council action.
4. Refuse Collection. Refuse collection will be done by a commercial hauler.
5. Building Plans and Fire Codes. The grant of this Special Use Permit is subject to building plans being submitted to and approved by the Department of Building Inspection and Zoning and by the Fire Department. Based upon occupant count, the City of West Allis Fire Department has required a sprinkler be installed.
6. Staff. The restaurant will staff between 50-75 employees (no more than 25 at any one time). Staffing capacity shall be based upon occupant load calculations.
7. Seating Capacity. Indoor seating not to exceed 135 patrons is proposed and shall be in accordance with occupant load calculations.
8. Outdoor Dining. An area for outdoor dining is located in front of the building as approved in the site, landscaping and architectural plan approved March 24, 2004, by the West Allis Plan Commission.
9. 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.
10. Window Signage. Window signage shall not exceed twenty (20) percent of the glazed portion of each window frame.
11. Pagers/Intercoms. The use of outdoor pagers, intercoms or loudspeakers shall not be permitted on site.
12. Parking Requirements. A minimum of 48 spaces shall be provided on the subject property which includes two handicapped spaces: the Zoning Code requires 31 spaces. Ingress and egress is via two curb cuts on W. Greenfield Ave. which are shared through easements with Walgreen's to the west and the former Mykonos Restaurant to the east. McDonald's has access to S. 84 St. via a shared curb cut with Walgreen's and a cross easement across the rear of the building area.
13. 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.
14. Easements. The grant of this special use is conditioned upon necessary cross easement documentation being on file in the Building Inspections Dept.
15. Paving and Drainage. The grant of this special use is subject to necessary site paving and drainage plans(s) being submitted to the Building Inspection Dept.
16. Signage. The grant of this special use is subject to all signage plans being submitted to the Plan Commission for approval.

17. Litter. McDonald's shall obtain permission from east and west abutting property owners to enter those sites thus allowing McDonald employees to inspect the sites and pick up litter on a daily basis. A schedule of site maintenance shall be posted on site (location to be approved by the Department of Development). Refuse, recyclables, grease and other waste materials will be fully enclosed within an approved structure.

Applicant is advised that the foregoing conditions are reasonably necessary to protect the public interest and 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.

The grant of this special use shall become null and void within one year of the date thereof, unless construction is under way or the current owner possesses a valid building permit under which construction is commenced, within sixty (60) days of the date thereof and which shall not be renewed unless construction has commenced and is being diligently pursued. No extension of these time limitations will be permitted under any circumstances, including the applicant's failure to obtain other necessary building and zoning approvals.

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.

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.

The City Attorney is hereby authorized to make such non-substantive changes, modifications, additions and deletions to and from the various provisions of the Special Use Permit, including any and all attachments, exhibits, addendums and amendments, as may be necessary and proper to correct inconsistencies, eliminate ambiguity and otherwise clarify and supplement said provisions to preserve and maintain the general intent thereof, and to prepare and deliver such other and further documents as may be reasonably necessary to complete the transactions contemplated therein.

Mailed to applicant on the
_____ day of _____, 2004

Assistant City Clerk

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

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