



City of West Allis

Legislation Text

File #: R-2004-0315, **Version:** 1

Resolution relative to determination of Special Use Application to establish a Cold Stone Creamery restaurant within the Shoppes on 100 site located at 2935 S. 108 St.

WHEREAS, Sally and Douglas Unger, d/b/a Cold Stone Creamery, 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 at 2935 S. 108 St. within the Shoppes on 100 building; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on November 3, 2004, 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 applicants, Sally and Douglas Unger, d/b/a Cold Stone Creamery, reside at 684 Bradford Way, Hartland, WI 53029.
2. The applicants have a valid offer to lease space at 2935 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. 520-9965-026

Said land being located at 2935 S. 108 St.

3. The applicant is proposing to establish an ice cream shop within a portion of the retail space of Shoppes on 100 for dine-in and carry-out within the building. Outdoor dining use is also permitted on site, subject to Plan Commission and landlord approval.
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 part of a block along the west side of S. 108 St. between W. National Ave. and W. Oklahoma Ave. which is zoned for commercial purposes. Properties to the north, south, east and west are developed for commercial.

6. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area. A new parking lot will be constructed for the Shoppes on 100 development.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Sally and Douglas Unger, d/b/a Cold Stone Creamery, to establish a restaurant within the Shoppes on 100 building 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 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, Signage and Architectural Plans. The grant of this special use permit is subject to and conditioned upon the site, landscape, screening, signage and architectural plans approved on October 27, 2004, 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. 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. Restaurant Area. The floor area for the restaurant will consist of 1,351 square feet of area within the Shoppes on 100 building. Seating for 10 patrons will be provided.
4. Restaurant Operations. The restaurant will be utilized for dine-in and carry-out. Outdoor dining is permitted on site subject to Plan Commission and landlord approval.
5. Hours of Operation. The hours of operation will be from 10:00 a.m. to 10:00 p.m., Sunday through Thursday, and from 10:00 a.m. to 11:00 p.m. on Friday and Saturday.
6. Off-Street Parking. Five parking stalls are required for the proposed restaurant and a total of 115 surface stalls are provided by the Shoppes on 100 master parking plan.
7. Signage. The grant of this special use is subject to all signage plans being in compliance with a master signage plan submitted by Zabest Commercial and approved July 28, 2004 by the Plan Commission.
8. Litter. Employees shall inspect the area and immediate vicinity and pick up litter on a daily basis. Refuse, recyclables, grease and other waste materials will be fully enclosed within an approved structure.
9. Window Signage. Any building window signage shall not exceed twenty (20) percent of each window's area. Any existing signage on site shall be removed.
10. 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.

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.

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 applicants' failure to obtain other necessary building and zoning approvals.

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.

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.

Mailed to applicants on the
_____ day of _____, 2004

Assistant City Clerk

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

ZON-R-465-11-3-04\jmg