



# City of West Allis

## Legislation Text

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**File #:** R-2015-0024, **Version:** 1

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Resolution relative to determination of Special Use Permit for the Wisconsin Humane Society for a proposed spay and neuter clinic to be located at 9400 W. Lincoln Ave.

WHEREAS, Sean Phelan, d/b/a 9400 Lincoln LLC, on behalf of the Wisconsin Humane Society, duly filed with the City Clerk an application for a Special Use Permit, pursuant to Sec. 12.16 and Sec. 12.41(2) of the Revised Municipal Code of the City of West Allis to establish a veterinary clinic, specializing in animal sterilization, at the property located at 9400 W Lincoln Ave.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on February 3, 2015, 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, Sean Phelan, d/b/a 9400 Lincoln LLC, has offices at 117 N. Jefferson St. #207, Milwaukee, WI 53202 and is proposing to lease the building to the Wisconsin Humane Society, who has offices at 4500 W. Wisconsin Avenue, Milwaukee, WI 53208.

2. The applicant is proposing to lease the building to the tenant who will operate a veterinary clinic specializing in animal sterilization. No outdoor boarding kennels or dog runs are proposed. The property is located at 9400 W. Lincoln Ave., 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 5, Township 6 North, Range 21 East, in the City of West Allis, Milwaukee County, State of Wisconsin, described as follows:

Lots 1 thru 6 in Block 5 of the McGeoch Highlands subdivision.

Tax Key No. 479-0756-001

Said land located at 9400 W. Lincoln Ave.

3. The aforesaid premises is zoned C-2 Neighborhood Commercial District under the Zoning Ordinance of the City of West Allis, which permits veterinary clinics as a Special Use, pursuant to Sec. 12.16 and Sec. 12.41 (2) of the Revised Municipal Code. Outdoor kennels or dog runs are not permitted.

4. The subject property is located at the intersection of two commercial corridors (W. National Ave. and W. Lincoln Ave.). The area is zoned for commercial purposes. Properties to the north and west are developed as commercial. Properties to the south and east are developed as commercial and residential.

5. The proposed development should not contribute to adverse traffic volume 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 Sean Phelan, d/b/a 9400 Lincoln LLC, on behalf of the Wisconsin Humane Society, 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. 12.16 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, landscaping, screening and architectural plans approved on January 28, 2015, by the West Allis Plan Commission, as provided in Sec. 12.13 of the Revised Municipal Code of the City of West Allis. No alterations or modification to the approved plan shall be permitted without approval by the West Allis 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 Neighborhood Services and by the Fire Department.
3. Hours of Operation. The general hours of operation will be as follows: Monday thru Friday, 8:00 a.m. to 5:00 p.m. The clinic will not regularly be open on weekends.
4. Litter. Employees shall inspect the area and immediate vicinity and pick up litter on a daily basis.
5. Public Nuisance. In accordance with Chapter 18 of the Revised Municipal Code, Public Nuisances are prohibited. Public Nuisances include blighted properties due to an accumulation thereon of junk or other unsightly debris. Enforcement and abatement of public nuisances, including revocation of the Special Use Permit, may take place after three (3) or more nuisance activities have occurred at a premise on separate days during a one hundred and eighty (180) day period.
6. Off-Street Parking. A total of 18 parking stalls are required for the proposed use. Parking for 37 vehicles, including two (2) ADA stalls, will be provided on site.
7. Signage. All signage for the site shall be installed in accordance with the West Allis Signage Ordinance.
8. 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.
9. Refuse Collection. Refuse collection to be provided by commercial hauler and stored within the building or a four-sided enclosure large enough to accommodate all outdoor storage of refuse and recyclable containers and/or compactor.
10. Pagers, Intercoms. The use of outdoor pagers, intercoms, or loud speakers shall not be permitted on site.
11. Sidewalk Repair. The grant of this special use is subject to compliance with Policy No. 2814 of the

Revised Municipal Code relative to the City's sidewalk improvement policy as it relates to damaged, (if any) abutting sidewalk.

12. Outdoor Lighting. The grant of this special use is subject to all lighting fixtures being orientated and/or shielded in such a manner that no light spills from the property boundaries.

13. Noxious Odors, Etc. The use shall not emit foul, offensive, noxious or disagreeable odors, gases, or effluvia into the air. Mechanical systems shall be maintained to efficiently remove noxious odors.

14. 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.

15. Deliveries and Refuse Pickup. 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 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.

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. 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.

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. 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.

20. 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.

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Tenant/Wisconsin Humane Society

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Property owner/Sean Phelan, d/b/a 9400 Lincoln LLC

Mailed to applicants on the

\_\_\_\_\_ day of \_\_\_\_\_, 2015

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City Clerk

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

ZON-R-985-2-3-15