



# City of West Allis

## Legislation Text

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**File #:** R-2011-0245, **Version:** 1

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Resolution relative to determination of Special Use Permit for a proposed children's daycare facility located within a portion of the Good Shepherds School building at 1337 S. 100 St.

WHEREAS, Good Shepherd's Evangelical Lutheran Church and daycare facility, has duly filed with the City Administrative Officer, Clerk/Treasurer an application for a Special Use Permit, pursuant to Sec. 12.16, Sec. 12.33(3) and Sec. 12.16 of the Revised Municipal Code, to establish a special use permit for an existing daycare facility within the Good Shepard School building located at 1337 S. 100 St.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on December 20, 2011 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 applicant, Good Shepherd's Evangelical Lutheran Church and daycare facility, has an existing daycare business established at 1337 S. 100 St. (Tax Key No. 444-0534-002). While the Good Shepherd's Childcare Center has operated since September 2002, it has been in operation without the appropriate occupancy review and special use permit. Currently there is about 4,000 square feet of daycare area including offices and childcare rooms. The childcare area is in the existing school and gymnasium building.

The purpose of this special use review is to bring the existing daycare space within the school/gymnasium building into compliance. A recent fire inspection conducted in August determined that childcare activities were taking place on premise. Prior to this date, the occupancy allowed for only a school. Daycare uses carry different code requirements as well as the subject special use requirement.

A future expansion of daycare may be contemplated by Good Shepard's at some future time, but an expansion of the existing daycare use would require additional review and a special use. All building and fire codes will apply.

2. The applicant owns the School and Church property at 1304 S. 101 St. and 1337 S. 100 St., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All the land of the owner being located in the Southwest  $\frac{1}{4}$  of Section 32, Township 7 North, Range 21 East, City of West Allis, Milwaukee County, Wisconsin, described as follows:

Lots 1 thru 6, Lot 16, part of the adjacent vacated West Madison Street and adjacent vacated public alley, all part of the David Conrad Subdivision No. 1.

Tax Key No. 444-0534-002

3. Total enrollment in the childcare program is 53 children (including 28 children, ages 2.5 and under). An

additional 36 older children (4K and up) are enrolled in before/after school care. Good Shepherd's has 11 employees working in its childcare program.

Good Shepherd's operates childcare for the use of its church members and school families, and as an outreach to neighborhood families with the hope that those families will become members of Good Shepherd's Church. Many families who have used childcare have subsequently sent children to the school and have become members of Good Shepherd's Church. The Gymnasium provides an indoor recreational play area and there is also an outdoor play area on the west side of the site.

4. The aforesaid premises is zoned RA-3, Residence District which permits daycare facilities as a special use pursuant to Sec. 12.33(3), Sec. 12.16 of the Revised Municipal Code.

5. The subject property is located on the west side of S. 100 St. between Madison Pl. and W. Washington St. Surrounding properties are developed Residential Uses. The property north of the Good Shepard's School site is used as Good Shepard's Church.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application for Special Use submitted by Good Shepherd's Evangelical Lutheran Church and daycare facility, 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 Section 12.16 Section 12.33(3) and Section 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 and Screening, and Architectural Plans. The grant of this Special Use Permit is subject to and conditioned upon approval of the site, landscaping and screening, plans approved December 7, 2011 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. Licenses and Permits. Subject to applicant obtaining all required State of Wisconsin licenses and permits.
4. Hours of Operation. Regular hours of operation are seven days/week from 6:00 a.m. to 6:00 p.m.
5. Parking. While 193 parking spaces are required for the site (86 for the church, 94 spaces for the gym and 13 spaces for the school and daycare), a total of 132 parking spaces will be provided as follows: 80 street parking spaces and 52 parking spaces off-street/on site. The Common Council has the authority to change the minimum parking requirements in accordance with Sec. 12.16(9) of the Revised Municipal Code. The rationale for reducing the required number of parking stalls as follows:

A. Despite the parking shortage from the typical zoning requirement, the gym and church uses (requiring

the largest amount of parking spaces) are not used at the same time.

B. The Good Shepard's daycare use has been in operation since 2002 without a parking issue.

C. While street parking in the vicinity of Good Shepard's School and Church is available for anyone in the neighborhood to use, there are no other adjacent church, school or commercial uses on S. 100 St. that utilize the available street or off-street parking (along the Good Shepard's S. 100 St. frontage).

D. S. 100 St. is situated just west of the Hwy 45/expressway and the configuration of street parking in City right-of-way along S. 100 St. has been designed at an angle to maximize available street parking for the existing church and school uses.

6. Pagers, Intercoms. The use of outdoor pagers, intercoms, or loud speakers shall not be permitted on site.

7. Litter. Employees shall inspect the site and immediate vicinity and pick up litter on a daily basis. Refuse, recyclables, and other waste materials will be fully enclosed within an approved structure and/or compactor.

8. Refuse Collection. Refuse collection to be provided by commercial hauler and stored within a four-sided enclosure large enough to accommodate all outdoor storage of refuse and recyclable containers.

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. 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.

11. Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light splays from the property boundaries.

12. 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.

13. 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.

14. 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.

15. 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 may be terminated.

16. 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.

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Good Shepard's Evangelical Lutheran, authorized agent

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-842-12-20-11