



# City of West Allis

## Legislation Text

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**File #:** R-2017-0206, **Version:** 1

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Resolution relative to determination of Special Use Permit for VJ's Food Mart, for a proposed Class A Liquor License at 9206-10 W. Schlinger Ave.

WHEREAS, Raj Patel, d/b/a VJ's Food Mart, duly filed with the City Clerk an application for a Special Use Permit, pursuant to Sec. 12.16, Sec. 12.42(2), of the Revised Municipal Code of the City of West Allis, for a Class A Liquor License at an existing grocery/convenience store at 9206 W. Schlinger Ave. and,

WHEREAS, after due notice, a public hearing was held by the Common Council on August 1, 2017 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. Raj Patel, d/b/a VJ's Food Mart (tenant), has offices at 9206 W. Schlinger Ave., West Allis, WI 53214. The property is owned by Fishlove Howard I Trust, 845 Gramsie Rd., Shorewood, MN 55126.
2. The subject property is located at 9206-10 W. Schlinger Ave., West Allis, Milwaukee County, Wisconsin; more particularly described as follows, to-wit:

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

Lots 10, 11 and West 13.00 feet of Lot 9 in Block 6 of the Conrad Hill subdivision.

Tax Key No. 416-0041-001.

Said land being located at 9206-10 W. Schlinger Ave.

3. The building is currently comprised of two tenant spaces. The aforesaid premise is zoned C-3 Community Commercial District, which designates grocery stores as a permitted use, however, the applicant is proposing to establish alcohol beverage sales (via new Class A License), thereby requiring a special use permit pursuant to Sec. 12.42(2) of the Revised Municipal Code.

Any Alcohol beverage sale use (requiring Class A License for original and/or transfer applications) requires a special use permit. In accordance with zoning ordinance O-2017-0016 and licensing requirements of the State of Wisconsin and Section 9.02 of the City of West Allis Revised Municipal Code to sell fermented malt beverages (beer and/or cider) and/or intoxicating liquor (including wine) for consumption off- premise requires a special use.

4. The applicant is proposing to establish Alcohol beverage sales (Class A License) and has applied for an original Class A Liquor License to sell packaged alcoholic beverages from within the existing 2,475 square foot

grocery/convenience store.

5. The subject property is located on the northwest corner of W. Schlinger Ave. and S. 92 St., and is zoned for commercial purposes. Properties to the north and west are zoned for commercial uses, and are developed as multi-family residential and low density residential uses. Properties to the east are zoned for industrial and commercial uses, and are used for industrial and commercial purposes. Properties to the south are zoned for low-density residential uses, and are developed as such.

6. The use, value and enjoyment of other property in the surrounding area for permitted uses will not be substantially impaired or diminished by the establishment, maintenance or operation of the special use.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application submitted by Raj Patel, d/b/a VJ's Food Mart, to establish a retail grocery/convenience store use with a Class A Liquor License, 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.

NOW, THEREFORE 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, screening and architectural plans approved by the West Allis Plan Commission on July 26, 2017. No alterations or modification to the approved plan shall be permitted without approval by the West Allis Plan Commission.

2. Building Plans, Fire Codes and Licenses. 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. Any applicable licenses shall be applied for and approved. Seating capacity shall be in accordance with limits of occupancy load calculations as approved by Building Inspection and Fire Departments.

3. Off-Street Parking. In accordance with Sec. 12.19 of the Revised Municipal Code, up to 13 parking spaces are required for the grocery/convenience store. Based on the proposal provided by the applicant, a total of 10 parking stalls are proposed on site.

With the approval of this Special Use, the Common Council agrees to modify the minimum parking requirement in accordance with Sec. 12.16(9)(a) of the Revised Municipal Code.

4. Hours of Operation. The sale of alcoholic beverages shall be in accordance with licensing requirements and per the State law (State of Wisconsin).

5. Signage. Signage shall be permitted in compliance with the West Allis signage ordinance or approved via a variance to the code through the Plan Commission.

6. 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.

7. Deliveries and Refuse Pickup. All refuse to be provided by a commercial hauler. All refuse, recyclables and other waste material shall be screened from view within a four-sided enclosure or as approved by the Department of Development to match the building. 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 is a 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.
8. Litter. Employees shall inspect the site 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. Pest Control. Exterior pest control shall be contracted on a monthly basis.
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, (if any) abutting sidewalk.
11. Outdoor Lighting. All exterior lighting fixtures and/or lighting visible from public right-of-way shall be indirect and shielded in such a manner that no light splays beyond the property boundaries. Lighting is subject to a photometric lighting plan being approved by the Plan Commission.
12. Noxious Odors, Etc. The restaurant 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.
13. 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.
14. Noise. All exterior doors and windows of the establishment will be closed to prevent nuisance noise from entering the surrounding neighborhood. The outdoor dining area will be closed in accordance with the hours of operation approved by the Common Council.
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 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, then the special use may be terminated.

19. 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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Raj Patel, d/b/a VJ's Food Mart, tenant

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Fishlove Howard I Trust, property owner

Mailed to applicant on the  
\_\_\_\_\_ day of \_\_\_\_\_, 2017

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City Clerk

cc: Dept. of Development  
    Dept. of Building Inspections and Neighborhood Services  
    Div. of Planning

ZON-R-1113-8-1-17