



City of West Allis

Legislation Text

File #: R-2011-0207, **Version:** 1

Resolution relative to determination of Special Use Permit for La Parihuela Peruvian Restaurant to establish a restaurant located at 9039 W. National Ave. with outdoor dining as an extension of premises.

WHEREAS, Felix Barrientos, d/b/a La Parihuela Peruvian Restaurant, duly filed with the City Administrative Officer-Clerk/Treasurer an application for a special use permit, pursuant to Sec. 12.41(2) and Sec. 12.16 of the Revised Municipal Code, to establish a Peruvian restaurant with outdoor dining and catered events within the existing building located at 9039 W. National Ave.;

WHEREAS, after due notice, a public hearing was held by the Common Council on September 20, 2011, 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, Felix Barrientos, d/b/a La Parihuela Peruvian Restaurant, has an office at 9039 W. National Ave., West Allis, WI 53227.
2. The applicant leases a 1,800 square foot portion of this existing mixed-use property located at 9033-9039 W. National Ave., West Allis, Wisconsin, more particularly described as follows:

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Tax Key No. 479-0851-000

Said land being located at 9033-9039 W. National Ave.

3. The applicant is proposing to establish a full service Peruvian Restaurant, with sit down dining, outdoor dining (extension of premise), to serve beer and wine, to offer catering and carry-out service within the existing 1,800 square foot tenant space. The existing outdoor area will be located on the north side of the existing building. The restaurant will offer sit down dining for its patrons but will also offer carry-out and catered events by appointment.
4. The aforesaid premise is zoned C-2 Neighborhood Commercial District under the Zoning Ordinance of the City of West Allis, which permits restaurants and outdoor dining as a special use, pursuant to Sec. 12.41(2) and Sec. 12.16 of the Revised Municipal Code. The applicant has been granted a beer and wine license from the License and Health Committee subject to application of this special use.
5. The subject property is located on the south side of W. National Ave. Properties to the east, west and north are developed and zoned for commercial and mixed uses and uses to the south are developed and zoned for residential.
6. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area as the property is located along an urban commercial corridor, served by public transit and offering off-street.

Historically this property has functioned as a restaurant.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Felix Barrientos, d/b/a La Parihuela Peruvian Restaurant to establish a restaurant, outdoor dining (extension of premises) and catering be and his 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 and Architectural Plans. The grant of this special use permit is subject to and conditioned upon the Site, Landscaping and Architectural Plans being approved 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. Seating capacity shall be in accordance with limits of occupancy load calculations as approved by Building Inspection and Fire Department.

3. Licenses. The grant of this special use is subject to and obtaining any applicable State or Local licenses. The License and Health Committee has previously granted (at the 7/26/11 committee meeting) a class B (beer) and class C (wine) subject to necessary requirements (the Special Use application).

4. Hours of Operation. The hours of operation for the use shall be as follows: Monday thru Friday 10:00 a.m. - 11:00 p.m., Saturday 8:00 a.m. - 11:00 p.m. and Sunday 8:00 a.m. - 9:00 p.m. The hours of operation for the outdoor area shall be in accordance with the business hours indicated above.

5. Operations:

A. All exterior doors shall be kept closed to prevent sound/noise emissions into the adjacent neighborhood.

B. Excessive odors from cooking on premises shall be controlled within limits of current technology.

C. Excessive noise and vibrations shall not emanate from the building.

D. Employees shall inspect the site and immediate vicinity and pick up litter on a daily basis.

E. Exterior pest control shall be contracted on a monthly basis.

F. Special events to be authorized by Common Council.

6. Off-Street Parking. The property/development requires a total of 30 parking spaces. Thirty-five (35) parking stalls will be provided on site (includes ADA).

7. Litter and Monitoring. 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 four-sided structure. The restaurant and outdoor area shall be adequately monitored by staff.

8. 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 south of 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.

9. Window Signage. Any building window signage shall not exceed twenty (20) percent of each window's area and shall not be installed upon the exterior of the window space.

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.

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

12. 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.

13. Noise. All exterior doors and windows of the use will be closed to prevent excess noise from penetrating the adjacent neighborhood. The outdoor area/patio will also close at midnight (12:00 a.m.) per the City of West Allis Revised Municipal Code.

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

15. 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.

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. 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.

20. 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.

Felix Barrientos, d/b/a La Parihuela Peruvian Restaurant/tenant

Charles Kalashian, Kalashian LLC/property owner

Mailed to applicant on the
_____ day of _____, 2011

Assistant City Clerk

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

ZON-R-834-9-20-11