



City of West Allis

Legislation Text

File #: R-2010-0126, **Version:** 1

Resolution relative to determination of Special Use Permit for proposed daycare facility to be located at 5801 W. National Ave.

WHEREAS, Laura Cagle, d/b/a The Learning Years Daycare, duly filed with the City Administrative Officer, Clerk/Treasurer an application for a Special Use Permit, pursuant to Sec. 12.16 and Sec. 12.42(2) of the Revised Municipal Code, to establish a daycare/educational facility within the existing commercial building located at 5801 W. National Ave.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on May 18, 2010, 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, Laura Cagle, d/b/a The Learning Years Daycare, will have offices on site at 5801 W. National Ave.
2. The applicant proposes to purchase the subject property at 5801 W. National Ave., 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 35, Township 7 North, Range 21 East, in the City of West Allis, Milwaukee County, State of Wisconsin, described as follows:

Lot 1 in the Block 3 in the Bracken Brae subdivision.

Tax Key Number: 438-0448-000

3. The applicant proposes to utilize the entire existing building first and second floor for the use of a children's daycare. The daycare is expecting to serve approximately 60 children between the ages of 6 weeks to 12 years of age. A total of 8 employees are proposed. The basements area will only be utilized for storage of office supplies and not daycare or educational use.
4. The aforesaid premises is zoned C-3 Community Commercial District under the zoning ordinance of the City of West Allis, which permits daycares and educational institutions as a special use, pursuant to Sec. 12.42(2) and Sec. 12.16 of the Revised Municipal Code.
5. The subject property is located on the south side of W. National Ave. and S. 58 St., which is zoned for commercial purposes. Properties to the east are developed as commercial uses. Properties to the north are developed as residential and mixed-use. Properties to the south and west are developed as a combination of residential uses.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that Laura Cagle, d/b/a The Learning Years Daycare, be, and is hereby granted a special use:

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 and Section 12.42(2) 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 Signage Plans. The grant of this special use permit is subject to and conditioned upon approval of the site and landscape plans approved April 28, 2010 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. A signage plan shall be submitted to the Department of Development for review and approval.
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. Paving and Drainage. Paving and Drainage Plan being submitted to the Department of Building Inspections for approval.
4. Hours of Operation. The daycare facility will be open seven days/week from 5:30 a.m. to 10:00 p.m. Monday thru Friday. Weekend hours are based upon demand.
5. Licenses and Permits. Subject to applicant obtaining all required State of Wisconsin licenses and permits.
6. Parking. Off-street parking for four (4) vehicles will be provided on site. In accordance with Section 12.19 of the Revised Municipal Code, 20 parking spaces are required for the use. Street parking is available along S. 58 St. and W. National Ave. A van for the business will be parked on site as the daycare offer transportation as part of the business.
7. Pagers, Intercoms. The use of outdoor pagers, intercoms, or loud speakers shall not be permitted on site.
8. Driveway Permit. A driveway permit being applied for and received for the closure of the existing S. 58 St. driveway.
9. 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.
10. 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.
11. 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.
12. Window Signage. Any building window signage shall not exceed twenty percent (20%) of each window's area.
13. 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.
14. 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 splays from the property boundaries.
15. Grant of Privilege. The special use is conditioned upon a Grant of Privilege being applied for and approved by the Board of Public Works for minor encroachment of landscaping along S. 58 St. Any such area approved in the Grant of Privilege is subject to the terms and conditions set forth herein.
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.
- E. The Common Council may declare the Special Use Permit to be void using the procedure set forth in Section 12.

17. Miscellaneous.

- A. Applicant is 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 applicant's 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. 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.

19. 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.

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.

Laura Cagle, d/b/a The Learning Years Daycare

Mailed to applicant on the
____ day of _____, 2010

Assistant City Clerk

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

ZON-R-762-5-18-10