



City of West Allis

Legislation Text

File #: R-2019-0792, **Version:** 2

Resolution relative to determination of Application for a Special Use Permit for The Lapham, a proposed restaurant, to be located at 1603 S. 81 St., with commercial parking to be located at 1603 S. 81 St., 16** S. 82 St. and 16** S. 81 St.

WHEREAS, Ryan Oschmann, applicant, d/b/a The Lapham, 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, to establish a restaurant at 1603 S. 81 St.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on November 5, 2019 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, Ryan Oschmann d/b/a The Lapham, is proposing to renovate the former funeral home at 1603 S. 81 St. into a restaurant occupying the entire building.
2. The applicant owns the existing building at 1603 S. 81 St., and adjacent parking lots at 16** S. 82 St. and 16** S. 81 St., more particularly described as follows:

All that land of the owner being located in the Northeast $\frac{1}{4}$ of Section 4, Township 6 North, Range 21 East, City of West Allis, Milwaukee County, State of Wisconsin describes as follows:

Lots 1, 2, 3 and 4 in Block 6 of the State Avenue Land Co's Subdivision; Lots 5 and 6 in Block 5 of the State Avenue Land Co's Subdivision; Lot 1 in Block 3 of the Continuation Of Henderson Park subdivision.

Tax Key No. 452-0327-001, 452-0506-000, 452-0314-000

Said land being located at 1603 S. 81 St., 16** S. 82 St. and 16** S. 81 St.

3. The applicant proposes to establish a restaurant, which will specialize in American comfort food, such as mac & cheese, braised rib tips, and burgers. Given the architecture of the building, they plan to play in between the lines of a 1920s tavern and the elegance of a French restaurant in New Orleans. The restaurant will have two rooftop dining areas on the second floor.
4. The aforesaid premises is zoned C-2 Neighborhood Commercial District under the Zoning Ordinance of the City of West Allis, which permits restaurants, as a Special Use, pursuant to Sec. 12.16 and Sec. 12.41(2) of the Revised Municipal Code.
5. The subject property is part of a commercial business district along S. 81 St. Adjacent properties to the east and west of S. 81 St. are developed and zoned for residential uses. Properties to the south and north within the block are developed for residential purposes and zoned for commercial.
6. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area, as the property offers off-street parking.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Ryan Oschmann, applicant, d/b/a The Lapham, to establish a restaurant at 1603 S. 81 St., 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 a Site, Landscaping, Screening 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, Fire Codes and Licensing. 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, Health and by the Fire Department. All applicable Federal, State and local licenses being applied for and approved. Seating capacity shall be in accordance with limits of occupancy load calculations as approved by Building Inspection and Fire Department.
 3. Operations.
 - A. The restaurant will include seating for 154 people, 36 of which is outdoor seating.
 - B. Business operations from 11am - 12am on Tuesday - Thursday, 11am - 2am on Friday and Saturday, and 10am - 9pm on Sunday. Outdoor dining hours shall be 11am - Midnight.
 - C. Outdoor dining is granted with the approval of this special use and is subject to all building, fire and health codes and licensing.
 4. Off-Street Parking. A total of eighty (80) parking spaces are required for the restaurant use. The property has three separate parking lots totaling thirty-three (33) parking spaces. Reduced parking may be permitted and customers would use on-street parking, as has historically been the case for the previous use of a funeral home.

The Common Council has the authority to accept the revised parking provisions, as a condition of the Special Use. With the approval and signed execution of this resolution, the Common Council agrees to allow revised minimum parking requirements, in accordance with section 12.16(9)(a) of the Revised Municipal Code.
 5. Signage. Signage shall be in compliance with the City's Signage Ordinance. Any building window signage shall not exceed twenty (20) percent of each window's area. Rope lighting shall not be allowed.
 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. Litter. Employees shall inspect the area and immediate vicinity and pick up litter on a daily basis.
 8. Refuse Collection and pick-up. Refuse collection to be provided by commercial hauler and stored within the building or an enclosure large enough to accommodate all outdoor storage of refuse and recyclable containers and/or compactor, as approved by the Plan Commission.
- 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 within the building and residential neighborhood adjacent to the site, refuse pick up shall only be permitted during daytime hours. These functions shall not be permitted between the hours of 10:00 p.m. and 7:00 a.m.
9. Pest Control. Exterior pest control shall be contracted on a monthly basis.
 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, 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 splays 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. 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 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.

Applicant, d/b/a The Lapham

Property owner

Mailed to applicants on the

_____ day of _____, 2019

City Clerk

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

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