



City of West Allis

Legislation Text

File #: R-2008-0161, **Version:** 2

Resolution relative to determination of Special Use Permit for D'Acquisto's House of Ink, a proposed tattoo parlor, to be located at 8125 W. National Ave. (Tax Key No. 452-0601-000)

WHEREAS, Nunzio D'Acquisto III, d/b/a D'Acquisto's House of Ink, 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 tattoo and body piercing business within a portion of the existing mixed use building located at 8121-23-25 W. National Ave.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on June 17, 2008, 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, Nunzio D'Acquisto III, d/b/a D'Acquisto's House of Ink, resides at 7759 S. Scepter Drive, Apt. 5, Franklin, WI 53132.
2. The applicant has a valid offer to lease the commercial portion of floor space at 8125 W. National Ave, West Allis, Milwaukee County, Wisconsin, 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:

Lot 1 in Block 5 of the Assessors Plat No. 259.

Tax Key No. 452-0601-000

Said land being located at 8121-23-25 W. National Ave.

3. The applicant is proposing to occupy approximately 1,200 sq. ft. of the commercial portion of the building with a tattoo and body piercing business.
4. The aforesaid premises is zoned C-2 Neighborhood Commercial District under the Zoning Ordinance of the City of West Allis, which permits tattoo/body piercing establishments as a special use, pursuant to Sec. 12.41(2) and Sec. 12.16 of the Revised Municipal Code.
5. The subject property is located along the south side of W. National Ave. between S. 81 St. and S. 82 St. Properties to the north, east and west are developed as commercial. Properties to the south are developed as Union Pacific Railroad and manufacturing.

6. The use, value and enjoyment of other property in the surrounding area 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 of Nunzio D'Acquisto III, d/b/a D'Acquisto's House of Ink, to establish a tattoo and body piercing business 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 Secs. 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 Plans. The grant of this special use permit is subject to and conditioned upon the site, landscape, and screening plans approved by the Department of Development staff on February 2, 2007 and the City of West Allis Plan Commission on May 28, 2008, 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. The approved site, landscaping and screening plan does not include an outdoor refuse area. If one is needed by the tenants, a four-sided board-on-board refuse enclosure plan shall be submitted to the Department of Development staff for approval. A signage plan approved by the Department of Development is also required.
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. Off-Street Parking. Parking for ten (10) vehicles is required for the entire mixed-use property (four parking spaces are required for the tattoo/body piercing establishment). Off-street parking for four (4) vehicles will be provided on site.
4. Hours of Operation. The tattoo/body piercing business will be open Tuesday through Saturday from 12:00 p.m. (noon) to 8:00 p.m. All business shall be conducted by appointment only.
5. 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.
6. Outdoor Paging Speakers. Outdoor pagers or speakers shall not be permitted on site.
7. Window Signage. Any building window signage shall not exceed twenty (20) percent of each window's area.
8. Sidewalk Repair: The grant of this special use is subject to compliance with Section 2814 of the City's Policy and Procedures Manual relative to that policy as it relates to the replacement and repair to City walkways of damaged or defective (if any) abutting sidewalk.
9. 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 11.

10. 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.

11. 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.

12. Acknowledgement. That the applicant 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.

Nunzio D'Acquisto III, d/b/a D'Acquisto's House of Ink

Mailed to applicant on the
_____ day of _____, 2008

Assistant City Clerk

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

ZON-R-676\6-17-08\bjb