



City of West Allis

Legislation Text

File #: R-2015-0001, **Version:** 1

Resolution relative to determination of Special Use Permit to establish Dave's Famous Pickles, a proposed limited food production facility, to be located at 7133 W. Becher St.

WHEREAS, Dave Shanklin, d/b/a Dave's Famous Pickles duly filed with the City Clerk 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 limited food production use within an existing building, located at 7133 W. Becher St.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on January 6, 2015, 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, Dave Shanklin, d/b/a Dave's Famous Pickles resides at 5724 W. Washington St. West Allis, WI 53214. The applicant has a valid offer to purchase the property.

All the land of the owner being located in the Southwest $\frac{1}{4}$ of Section 3, Township 6 North, Range 21 East, in the City of West Allis, Milwaukee County, State of Wisconsin, described as follows:

Lot 40 in Block 22 of Gross West Allis Addition subdivision.

Tax Key No. 453-1057-000

Said land being located at 7133 W. Becher St.

2. The applicant, Dave Shanklin, d/b/a Dave's Famous Pickles, is proposing to purchase, renovate and occupy the vacant building located at 7133 W. Becher St. The property, which has been vacant for more than a year, was recently foreclosed upon and is currently owned by Milwaukee County.

3. The aforesaid premise is zoned C-2 Neighborhood Commercial District under the Zoning Ordinance of the City of West Allis. The proposed food production use requires an ordinance amendment, which is undergoing review, separate from this proposal. That amendment would permit limited food production within the C-2 district as a Special Use under Sec. 12.41(2) and Sec. 12.16 of the Revised Municipal Code.

In addition, the property was most recently utilized for residential purposes, and the proposed use would convert the building back to commercial classification. The conversion of use brings forth review of the district's required conditions, including setbacks. In the C-2 District, commercial properties are required to have a 10 ft. side yard building setback from a property that abuts a lot in a residential district, as this one does. The Common Council may waive that requirement per Sec. 12.16(9), as part of the Special Use consideration.

4. The subject property is located on the southeast corner of W. Becher St. and S. 72 St. Properties to the

east and west are developed for Multi-family residential use. Properties to the north and south are developed for low density residential use.

5. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Dave Shanklin, d/b/a Dave's Famous Pickles to establish a limited food production use, 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 and 12.41(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. Ordinance Amendment. The proposed food production use requires an ordinance amendment, which is undergoing review, separate from this proposal. That amendment would permit limited food production within the C-2 district as a Special Use.
2. Site, Landscaping Screening and Architectural Plans. The grant of this special use permit is subject to and conditioned upon the site, landscaping and architectural plans approved on September 24 and December 3, 2014 by the 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.
3. 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.
4. Hours of Operation. The hours of operation shall be between 8am to 10pm seven days per week.
5. Off-Street Parking. The building is approximately 810 sq. ft., which per code requires three parking spaces (1:300 for retail and service establishments). The site plan shows room for up to five vehicles. Revised site plans will need to confirm the presence of at least three parking spaces, with any commercial vehicle storage noted, and screened or contained within the garage.

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 on the basis that this property was developed prior to current off-street parking standards, strict enforcement of the parking requirements would limit investment and pose a detriment to traditional neighborhood commercial development within the area, the property is situated adjacent to a public transit line, and street parking is available within the immediate area that could be utilized to satisfy the zoning requirement.

6. Side Yard Setback Requirement. According to Section 12.41(5)(b) there shall be a ten-foot setback from any side or rear lot line that abuts a residential use or zoning district. The existing side yard setback on the south side of the building is approximately 1-ft from the south property line which abuts a residential use and zoning district. The subject building was constructed in 1930 prior to the current zoning bulk requirements. Under Section 12.16(9) of the Revised Municipal Code, the Common Council has the authority to modify

setback requirements. With the approval and signed execution of this resolution, the Common Council agrees to accept the pre-existing building setback (approximately 1-ft from the south property line) in accordance with Section 12.16(9) of the Revised Municipal Code on the basis that this property was developed prior current zoning standards, strict enforcement of the setback requirements would limit the commercial use of the property.

7. Litter and Monitoring. Employees and operators 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 structure or located within the building envelope.
8. Window Signage. Any building window signage shall not exceed twenty (20) percent of each window's area.
9. 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.
10. Noxious Odors, Etc. The uses on premise 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.
11. Pollution. The uses on premise 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.
12. Noise. All exterior doors and windows will be closed to prevent excess noise from penetrating the adjacent neighborhood per the City of West Allis Revised Municipal Code.
13. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light splays from the property boundaries.
14. 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.
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 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.

Dave Shanklin, d/b/a Dave's Famous Pickles, property owner

Mailed to applicant on the
_____ day of _____, 2015

City Clerk

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

ZON-R-978-1-6-15