



City of West Allis

Legislation Text

File #: R-2006-0029, **Version:** 1

Resolution relative to determination of Special Use Permit for proposed gas station and convenience store, to be located at 2668 S. 92 St. (Tax Key No. 487-9975-002)

WHEREAS, Wahab Hussaini, prospective owner, 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 construct a gas station and convenience store by adding a 910 square foot addition to a former automotive repair building at 2668 S. 92 St.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on February 7, 2006, 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, Wahab Hussaini, perspective owner, resides at 3975 South 117 Street, Greenfield, WI 53228.
2. The applicant has a valid offer to purchase said premises located at 2668 S. 92 St., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All the land of the owner being located in the Northwest $\frac{1}{4}$ of Section 9, Township 6 North, Range 21 East, City of West Allis, Milwaukee County, State of Wisconsin, described as follows:

Commencing at the Southwest corner of the said Northwest $\frac{1}{4}$ of said Section 9; thence Northerly, 186.00 feet; thence Easterly, 55.00 feet to the east right-of-way line of South 92nd Street and Point of Beginning; thence continue Easterly, 100.00 feet; thence Southerly, 141.00 feet to the north right-of-way line of West Cleveland Avenue; thence Westerly, 100.00 feet, along said north line to the east right-of-way line of said South 92nd Street; thence Northerly, 141.00 feet, along said east line to the Point of Beginning.

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Said Property being located at 2668 S. 92 St.

3. The applicant is proposing to add 910 square feet to the existing 1,251 square foot former automotive repair building for one 2,161 square foot convenience store. Three gas pumps and a new canopy will be added to the 0.324-acre site.
4. The aforesaid premises is zoned C-2 Neighborhood Commercial District under the Zoning Ordinance of the City of West Allis, which permits gas stations and convenience stores, pursuant to Sec. 12.41(2) of the

Revised Municipal Code.

The C-2 Neighborhood Commercial District setback restrictions require a 10-foot east side yard setback on subject property as it abuts a residential property. The north building addition is proposed to be 4 feet off of the east side yard property line. The applicant requests that the side yard setback requirement be waived for this particular case, based on the following:

- A. The existing building is situated 4 feet off of the east property line. The north building addition will be constructed with an east wall that is flush with the existing building's east wall. The convenience store addition will not be located any closer than the existing building's proximity to the east residential property.
- B. The east convenience store facade faces a multi-family residential property, not a single-family residence. The east wall of the convenience store addition faces the multi-family residence's parking lot.
- C. The convenience store's east wall addition is a blank brick wall. It does not include any doors or windows for entering or exiting purposes.

5. The subject property is located on the northeast corner of W. Cleveland Ave. and S. 92 St. Properties to the north and west are developed as single-family residential uses, properties to the east are developed as multi-family residential uses, and properties to the south are developed as commercial.

6. The use, value and enjoyment of other property in the surrounding area for permitted uses 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 submitted by Wahab Hussaini, perspective owner, 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 Secs. 12.16 and Sec. 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. Site, Landscaping, Architectural and Signage Plans. The grant of this special use permit is subject to and conditioned upon the approval of site, landscape, and architectural plans approved January 25, 2006, by the City of West Allis Plan Commission and signage plans approved by the Department of Development. No alteration or modification of the approved plan shall be permitted without approval by the West Allis 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.
- 3. Paving and Drainage. The grant of this special use is subject to a paving and drainage plan being submitted to and approved by the Department of Building Inspections and Zoning.
- 4. Parking. A total of seven parking stalls, including one (1) ADA stall, are required per the Zoning Code. Six parking stalls will be provided on site including one (1) ADA stall.

5. Hours of Operation. Hours of operation for the gas station and convenience store shall be 5:00 a.m. to 11:00 p.m., 7 days per week.
6. Convenience Store Customer Limit. No more than two middle school-aged students shall be permitted inside the convenience store at one time unless accompanied by an adult.
7. Noxious Odors, Etc. The gas station/convenience store shall not emit foul, offensive, noisome or disagreeable odors, gases or effluvia into the air. Mechanical systems shall be maintained to efficiently remove noxious odors.
8. 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.
9. Outdoor Lighting. All outdoor lighting fixtures and canopy fixtures shall be shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, do not splay past the property boundaries. Canopy lighting shall be recessed within the canopy structure to limit light splay.
10. Outdoor Storage and Display. No outdoor storage, sales, or display of merchandise shall be permitted on site unless screened from view within a four-sided masonry enclosure.
11. 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.
12. Window Signage. Window signage shall not exceed 20% of the window area.
13. Gas Station Operations. Intercoms, pagers and audio voice-guided menu systems are not permitted at point of sale areas, such as gas pumps.
14. Litter. Employees shall inspect the site 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.
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. 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.

Mailed to applicant on the
_____ day of _____, 2006

Assistant City Clerk

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

ZON-R-542-2-7-06jmg