



# City of West Allis

## Legislation Text

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**File #:** R-2012-0152, **Version:** 1

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Resolution relative to Special Use Permit for a proposed addition and remodel of West Allis Cheese and Sausage Shoppe, located within a mixed use building at 6832 W. Becher St. and 2074 S. 69 St.

WHEREAS, Mark Lutz, owner, duly filed with the City Administrative Officer-Clerk/Treasurer an application for a special use permit, pursuant to Sec. 12.41(2), Sec. 12.49 and Sec. 12.16 of the Revised Municipal Code, to add a 1,188 sq. ft. 1<sup>st</sup> floor restaurant addition (including outdoor dining) to West Allis Cheese and Sausage Shoppe, which has an existing deli and 1<sup>st</sup> floor retail along with a 2-bedroom unit above, for the property located at 6832 W. Becher St. and 2074 S. 69 St.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on August 7, 2012, 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, Mark Lutz, owner, resides at 11970 W. Morgan Ave., Milwaukee, WI 53228.
2. The applicant owns the property at 6832 W. Becher St. and 2074 S. 69 St., 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 3, Township 6 North, Range 21 East, in the City of West Allis, Milwaukee County, State of Wisconsin, described as follows:

Lot 21 and South 10.00 feet of Lot 22, all being part of Wood Dale subdivision, Block 5.

Tax Key No. 476-0106-000

Said land is located at 6832 W. Becher St. and 2074 S. 69 St.

3. The applicant is proposing an addition/remodel to West Allis Cheese and Sausage Shoppe, including a 1,142 sq. ft. 1<sup>st</sup> floor addition (including outdoor dining) which will add restaurant space (including outdoor dining) and connect the existing deli and retail area to the storage garage.
4. The aforesaid premises is zoned C-2 Neighborhood Commercial District under the Zoning Ordinance of the City of West Allis, which permits mixed residential and commercial uses as a special use, pursuant to Sec. 12.41(2), Sec. 12.49 and Sec. 12.16 of the Revised Municipal Code.
5. The subject property is located on the northeast corner of S. 69 St. and W. Becher St. Properties to the south and north are developed as residential, properties to the east and west are developed as residential, commercial and multi-family.
6. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area as there is ample on

street parking in the area along the commercial corridor.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Mark Lutz, owner for a proposed restaurant addition (including outdoor dining) and remodel of West Allis Cheese and Sausage Shoppe, 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. 12.41(2), Sec. 12.49 and 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 the site, landscape, screening and architectural plans approved on July 25, 2012, 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. Floor Area Ratio Requirement. According to Section 12.41(4) of the Revised Municipal Code, the floor area ratio is not to exceed 1.0. With the addition proposed, this property will have a floor area ratio of 1.19. Under Section 12.16 of the Revised Municipal Code, the Common Council has the authority to waive the floor area ratio. As part of this Special Use Permit, the Common Council is allowing a greater floor area ratio on this site. The new addition will be located off of the public right-of-way and on site. The proposed architectural style will complement the existing property and services/supports the local neighborhood.
3. Rear 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 setback proposed for the addition is approximately 4 feet from the rear property line which abuts a residential use and zoning district; however, the existing building is built up to that same property line in a few locations meaning this addition will infringe nearly 4 feet less than parts of the existing building. Under Section 12.16 of the Revised Municipal Code, the Common Council has the authority to waive setback requirements. As part of this Special Use Permit, the Common Council is accepting the proposed setback as approved by the Plan Commission on this property.
4. 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.
5. Off-street Parking. In accordance with Sec. 12.19 of the Revised Municipal Code, fifteen (15) parking spaces are required on site. Two (2) are provided on site. The Common Council shall have the authority to change the minimum parking requirements in accordance with Sec. 12.16(9)(a) of the Revised Municipal Code.
6. Commercial Business Operations.
  - A. Excessive odors from cooking on premises shall be controlled within limits of current technology.
  - B. Refrigerator/coolers shall locate condensers within an enclosed area.
  - C. All exterior doors shall be kept closed to prevent sound/noise emissions into the adjacent neighborhood.
  - D. Excessive noise and vibrations shall not emanate from the building.
  - E. Exterior pest control shall be contracted on a monthly basis.
7. Litter. Employees shall inspect the site and immediate vicinity and pick up litter on a daily basis.
8. Deliveries and Refuse Collection. All Refuse collection to be provided by commercial hauler and stored within a four-sided enclosure large enough for all outdoor storage of refuse and recyclable containers as approved by the Department of Development.

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 residential neighborhood adjacent to the site, delivery operations and refuse pick up shall only be permitted during daytime hours. These functions shall not be permitted between the hours

of 9:00 p.m. and 7:00 a.m.

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. Pagers, Intercoms. The use of outdoor pagers, intercoms, or loud speakers shall not be permitted on site.
11. Monitoring. The area shall be adequately monitored by staff.
12. Window Signage. Any building window signage shall not exceed twenty (20) percent of each window's area
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 (if any), abutting sidewalk.
15. 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.
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.
17. 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.
18. 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.

19. 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, the special use may be terminated.

20. 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.

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Mark Lutz, West Allis Cheese and Sausage Shoppe, Inc.

Mailed to applicants on the

\_\_\_\_\_ day of \_\_\_\_\_, 2012

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Assistant City Clerk

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

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