



# City of West Allis

## Legislation Details (With Text)

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**Type:** Resolution **Status:** Placed On File

**File created:** 4/1/2019 **In control:** Safety and Development Committee (INACTIVE)

**On agenda:** 4/1/2019 **Final action:** 7/16/2019

**Title:** Resolution relative to determination of Special Use Permit for Bonita's, a proposed restaurant to be located at 1412 S. 73 St., submitted by Fernando Walker, applicant, and Dan Beyer, architect.

**Sponsors:** Safety and Development Committee (INACTIVE)

**Indexes:**

**Code sections:**

**Attachments:** 1. AFFIDAVIT OF PUBLICATION - PH - R-2019-0245

Date	Ver.	Action By	Action	Result
7/16/2019	1	Safety and Development Committee (INACTIVE)		Pass
7/16/2019	1	Common Council	Placed on File	Pass
7/16/2019	1	Safety and Development Committee (INACTIVE)		
4/1/2019	1	Safety and Development Committee (INACTIVE)	Held	
4/1/2019	1	Common Council		
4/1/2019	1	Safety and Development Committee (INACTIVE)		
4/1/2019	1	Common Council		

Resolution relative to determination of Special Use Permit for Bonita's, a proposed restaurant to be located at 1412 S. 73 St., submitted by Fernando Walker, applicant, and Dan Beyer, architect.

WHEREAS, Fernando Walker, applicant, d/b/a Bonita's, duly filed with the City Clerk an application for a Special Use Permit, pursuant to Sec. 12.16 and Sec. 12.40(2) of the Revised Municipal Code, to establish a restaurant at 1412 S. 73 St.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on April 1, 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, Fernando Walker, applicant, d/b/a Bonita's, will have offices on premise at 1412 S. 73 St., West Allis, WI 53214, and will lease up to 2,200-sf for a restaurant use within the ground floor of subject property.
2. The property is owned by Developing DTWA, LLC who has an office at 662 S. 94 Pl., West Allis, WI 53214.
3. The proposed tenant space is approximately 2,200 sq. ft. and is located on the ground floor (street level) within a multi-tenant commercial property located at 1408-1412 S. 73 St. & 7239-7249 W. Greenfield Ave., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All the land of the owner being located in the Northwest ¼ of Section 3, Township 6 North, Range 21 East, in the City of West Allis, Milwaukee County, State of Wisconsin, more particularly described as follows:

Lots 7, 8 and West 10.00 feet of Lot 6, Block 6 in the Central Improvement Co. Subdivision No.1.  
Tax Key No 453-0093-000

Said land being located at 1408-1412 S. 73 St. & 7239-7249 W. Greenfield Ave.

4. The applicant proposes to establish a restaurant, which will specialize in classic and gourmet sandwiches, as well as other specialty foods and treats. The deli may offer dine-in, carry-out, delivery and catering options. The applicant has offered that dine in will not be offered at the initial start-up (given applicable building code requirements), but is not excluded by zoning purposes with the grant of this special use.
5. The aforesaid premises is zoned C-1 Central Business 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. 12.40(2) of the Revised Municipal Code.
6. The subject property is part of a traditional commercial business district along W. Greenfield Ave., commonly referred to as Downtown West Allis. The area is zoned for commercial uses. Adjacent properties to the north, east and west are developed for commercial and mixed-use commercial uses. Properties to the south within the block are developed for municipal shared parking purposes.
7. 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 Fernando Walker, applicant, d/b/a Bonita's, to establish a restaurant at 1412 S. 73 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. Applicable licenses being granted by the License and Health Committee of the Common Council.
3. Operations.
  - A. The initial sandwich shop offering will not include any seating and is proposed to operate as an order, pick-up and go sandwich shop. Dining is not prohibited as part of the restaurant use, but will require evaluation of applicable building and fire codes.
  - B. With the grant of this special use the hours of operation are allowed to be daily/seven days per week from 7am to 10pm.
  - C. While outdoor dining is not currently proposed, is granted with the approval of this special use and is subject to all building, fire and health codes. A site plan is required to be submitted to the Department of Development for review prior to implementing any outdoor dining.
4. Off-Street Parking. A total of fourteen (14) parking spaces are required for the restaurant use. However, no parking is provided on site. The property is part of the Downtown Central Business District where public off-street parking is provided within less than 200-ft of the subject property.

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. 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.
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 spays 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. Deliveries and Refuse Pickup. 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, delivery operations and 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.
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, then 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.

\_\_\_\_\_  
Applicant, d/b/a Bonita's

\_\_\_\_\_  
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

ZON-R-1177- 4-1-19 (Bonitas)