



City of West Allis

Legislation Text

File #: R-2017-0140, **Version:** 1

Resolution relative to determination of Special Use Permit for Cousins Subs, a proposed sandwich shop with drive thru facilities, to be located at 6512 W. Greenfield Ave.

WHEREAS, Robert E. Schmidt III, d/b/a Boulder Venture, duly filed with the City Clerk an application for a Special Use Permit, pursuant to Sec. 12.45(2) and Sec. 12.16 of the Revised Municipal Code, to establish a Cousins Subs restaurant with drive-thru and outdoor dining at 6512 W. Greenfield Ave.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on June 6, 2017, 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, Robert E. Schmidt III, d/b/a Boulder Venture has offices at 311 E. Chicago St., Suite 210, Milwaukee, WI 53202.
2. The applicant will be demolishing the existing building and redeveloping the property located at 6512 W. Greenfield Ave., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All the land of the owner being located in the Southeast $\frac{1}{4}$ of Section 34, Township 7 North, Range 21 East, in the City of West Allis, Milwaukee County, State of Wisconsin, described as follows:

Lots 2 thru 6, in Block 2 of the First Continuation of Soldiers Home Heights Subdivision, including the vacated portion of the adjoining alley.

Tax Key No. 439-0150-002

Said land located at: 6512 W. Greenfield Ave.

3. The applicant is proposing to establish an approximate 2,400 sq. ft. building with a drive-thru facility, and an approximate 300 sq. ft. outdoor dining area on a 0.4994 acre commercial development site.
4. The aforesaid premises is zoned M-1 Manufacturing District under the Zoning Ordinance of the City of West Allis, which permits restaurants with drive-thru facilities and outdoor dining as a special use, pursuant to Sec. 12.45(2) and Sec. 12.16 of the Revised Municipal Code.
5. The subject property is part of a commercial corridor along the W. Greenfield Ave. between S, 65 St. and S. Six Points Crossing, which is zoned and utilized for commercial, mixed-use (commercial and residential) and manufacturing purposes. Properties to the north and west are developed and utilized as manufacturing and commercial uses, and properties to the south and east are developed for mixed commercial and residential uses.

6. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area, as the property offers off-street parking and is served by public transit.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Robert E. Schmidt III, d/b/a Boulder Venture to establish a restaurant with drive-thru and outdoor dining at 6512 W. Greenfield Ave. 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 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, Landscaping, Screening and Architectural Plans approved on May 24, 2017 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. Request to Rezone. As a condition of the Special Use Permit, the applicant agrees to submit an application for a request to rezone the property from M-1 Manufacturing to C-3 Community Commercial District, within one year of the Special Use Permit approval.
3. Building Plans, Fire Codes and Licenses. 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 and by the Fire Department. All applicable Federal, State and local licenses being applied for and approved. Seating capacity shall be in accordance with limits of occupancy load calculations as approved by Building Inspection and Fire Department.
4. Restaurant Operations. The restaurant will be utilized for dine-in, carry-out, drive-thru and outdoor dining as shown on the approved set of plans.
 - A. All exterior doors shall be kept closed to prevent sound/noise emissions into the adjacent neighborhood.
 - B. Excessive odors from cooking on premises shall be controlled within limits of current technology.
 - C. Excessive noise and vibrations shall not emanate from the building.
 - D. Employees shall inspect the site and immediate vicinity and pick up litter on a daily basis.
 - E. Exterior pest control shall be contracted on a monthly basis.
5. Outdoor Dining. The outdoor dining area shall be shown on the approved Site Plan and shall be operated in accordance with all applicable State and local regulations. The outdoor dining area shall be adequately monitored by staff.
6. Hours of Operation. The approved hours of operation will be from 9:00 a.m. to 10:00 p.m., Sunday thru Thursday, and 9:00 am to 11:00 pm on Friday and Saturday.

7. Paving and Drainage. A Paving and Drainage Plan shall be submitted to the Department of Building Inspections and Neighborhood Services for approval.
 8. Off-Street Parking. In accordance with Sec. 12.19 of the Revised Municipal Code, 16 parking spaces are required on site, including at least one ADA-compliant stall. As initially proposed, 32 will be provided. (The final provision may slightly differ, based on required improvements conditioned by the Plan Commission in Section 1; however, in no case shall the provided number of parking stalls be less than the required amount, per code.)
 9. Litter. Employees 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 4-sided structure to match the building.
 10. Window Signage. Any building window signage shall not exceed twenty (20) percent of each window's area.
 11. 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.
 12. Deliveries and Refuse Collection. Refuse collection to be provided by commercial hauler and stored within a four-sided enclosure large enough to accommodate all outdoor storage of refuse and recyclable containers and/or compactor.
- 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 mixed-use 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.
13. Pagers, Intercoms. The use of outdoor pagers, intercoms, or loud speakers shall not be permitted on site. Person-to-person conversation, as typical within drive-thru operations via speakers and microphones, is permitted, subject to noise/volume controls, as necessary.
 14. Sidewalk Repair. The grant of this Special Use Permit 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.
 15. Outdoor Lighting. The grant of this Special Use Permit is subject to all lighting fixtures being orientated and/or shielded in such a manner that no light splays from the property boundaries.
 16. Noxious Odors, Etc. The use 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.
 17. 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.
 18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

Adam Newman, d/b/a Landmark Credit Union, property owner

Joe Ferguson, d/b/a Cousins Submarines, Inc., tenant

Mailed to applicants on the

_____ day of _____, 2017

City Clerk

cc: Dept. of Development
Div. of Planning
Building Inspections and Neighborhood Services

ZON-R-1091-6-6-17