



City of West Allis

Legislation Text

File #: R-2017-0204, **Version:** 1

Resolution relative to determination of Special Use Permit for Mister Bar-B-Que, a proposed restaurant, to be located 8322 W. Lincoln Ave.

WHEREAS, Jervel Williams, d/b/a Mister Bar-B-Que, duly filed with the City Clerk an application for a Special Use Permit, pursuant to Sec. 12.16 and Sec. 12.41(2) of the Revised Municipal Code of the City of West Allis, to establish a proposed restaurant with food truck business and outdoor dining to be located at 8322 W. Lincoln Ave.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on August 1, 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, Mr. Jervel Williams, d/b/a Mister Bar-B-Que, purchased the subject property located at 8322 W. Lincoln Ave., West Allis, WI 53219, from the previous owners Gonnering Russell & Virginia Trust, 1780 San Fernando Dr. Elm Grove, WI 53122.
2. The applicant, Mr. Jervel Williams, d/b/a Mister Bar-B-Que has another location at 5908 N. 76 St. in the City of Milwaukee which will function as the kitchen facility for cooking food.
3. The subject property at 8322 W. Lincoln Ave. is owned by Jervel Williams, d/b/a Mister Bar-B-Que, West Allis, Milwaukee County, Wisconsin, more particularly described as follows, to-wit:

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

Lots 13 and 14 in Block 8 of the Tolles Subdivision.

Tax Key No. 477-0660-000

Said land being located at 8322 W. Lincoln Ave.

4. The aforesaid premise is zoned C-2 Neighborhood Commercial District under the Zoning Ordinance of the City of West Allis, which permits restaurants, food production limited and outdoor dining as a special use, pursuant to Sec. 12.16 and Sec. 12.41(2) of the Revised Municipal Code.
5. Mister Bar-B-Q is proposing to establish a food truck business on premise immediately with the grant of this special use, and then make phased improvements to the premise (site and building) over three phases, per the project planning application submitted. The schedule toward completing the proposed phased project scope is within 24 months from Common Council approval. The phased improvements are summarized below:

Phase 1: The initial phase is to open and conduct a food truck business on the site along-side the building. Customers will order and purchase food items directly from the food truck. Outdoor dining may be offered on site in the initial phases, but the site will primarily operate on a carry-out basis. A restroom within the existing building would be utilized by customers during food truck hours of operation. Building code updates would be made in order to utilize the restroom and any internal wash sinks.

Phase 2: Interior building demolition and interior modifications to update electrical, plumbing and HVAC.

Phase 3: The phase 3 renovations will include interior and exterior building changes and site and landscaping work (removal of service counter and adding a door to provide an internal service counter, updating the restroom, closure and modification to existing driveways, installation of landscaping).

6. The subject property is located on the northeast corner of S. 84 St. and W. Lincoln Ave., which is zoned for commercial purposes. Properties to the north and west are developed for residential purposes. Properties to the south and east are developed as commercial uses.

7. 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 Jervel Williams, d/b/a Mister Bar-B-Que, to establish a proposed restaurant with food truck business and outdoor dining to be located at 8322 W. Lincoln 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 Sec. 12.16 of the Revised Municipal Code, so as to permit the issuance of a Special Use Permit as therein provided.

NOW, THEREFORE 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 by the West Allis Plan Commission on July 26, 2017. No alterations or modification to the approved plan shall be permitted without approval by the West Allis Plan Commission.

2. 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.

3. Off-Street Parking. In accordance with Sec. 12.19 of the Revised Municipal Code, five (5) off-street parking spaces are required and shall be provided on-site, including 1 ADA space.

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.

4. Operations.

- A. Hours of operation granted with this use are between 10:00 a.m. - 8:00 p.m. daily (seven days per week).
- B. Barbeque smoking of foods will be conducted off-premise.
- C. The establishment will function primarily as a carry-out order use.
- D. The establishment is granted an outdoor dining area on site in accordance with the approved site plan.
- E. Customer trash receptacles shall be provided on site per the approved plans. Such trash and or recycle containers shall be maintained and serviced daily by the applicant and employees. Employees shall also inspect the site and immediate vicinity and pick up litter and remove on a daily basis.
- F. The food truck shall be parked on site in accordance with the approved site and landscaping plans.
- G. All exterior building doors shall be kept closed to prevent sound/noise emissions into the adjacent neighborhood.
- H. Excessive odors shall be controlled within limits of current technology.
- I. Excessive noise and vibrations shall not emanate from the food truck and/or building.
- J. Exterior pest control shall be contracted on a monthly basis.

5. Refuse Collection. Refuse dumpster service to be provided by a commercial hauler. Any dumpsters, grease receptacles stored outside, shall be screened from view within an approved four sided enclosure to match or complement the building.

6. Window Signage. Window signage shall not exceed twenty (20) percent of the glazed portion of each window frame and be attached to the interior of the window area.

7. 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.

8. Litter. Refuse, recyclables, grease, and other waste materials will be fully enclosed within an approved structure.

9. Deliveries and Refuse Pickup. All refuse to be provided by a commercial hauler. All refuse, recyclables and other waste material shall be screened from view within a four-sided enclosure or 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 is a 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.

10. 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.

11. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light splays from the property boundaries.

12. Noxious Odors, Etc. The restaurant 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.

13. 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.

14. Expiration of Special Use Permit. Per 12.16 (11) of the Revised Municipal Code, 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.

15. 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.

16. 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.

17. 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.

18. Acknowledgement. That the applicant signs 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.

Jervel Williams, d/b/a Mister Bar-B-Que (tenant and owner)

Mailed to applicant on the
_____ day of _____, 2017

City Clerk

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

ZON-R-1112-8-1-17