



City of West Allis

Legislation Text

File #: R-2019-0485, **Version:** 2

Resolution relative to determination of Application for a Special Use Permit for a proposed daycare, to be located at 7601 W. Becher St.

WHEREAS, Samuel Stair (Applicant), d/b/a S2 Real Estate 7601 W Becher LLC, has duly filed with the City Clerk an application for a Special Use Permit, pursuant to Sec. 12.41(2) and Sec. 12.16 of the Revised Municipal Code, to establish a children's day care facility to be located at 7601 W. Becher St.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on August 6, 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 and property owner, Samuel Stair, d/b/a S2 Real Estate 7601 W Becher LLC, is proposing to establish a children's day care facility at 7601 W. Becher St. (Tax Key No. 477-0736-001). The day care facility will occupy approximately 4,000 sq. ft. of space on the first floor of the existing mixed use (commercial and residential) building. An outdoor play area will also be established in the rear yard, between the existing building and the existing alley way.

2. Samuel Stair of S2 Real Estate 7601 W Becher LLC currently owns the property located at 7601 W. Becher St., 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 4, Township 6 North, Range 21 East, in the City of West Allis, Milwaukee County, State of Wisconsin, described as follows:

Lots 1, 2 and 3 in Block 1 of the W. T. Jenkins Subdivision.

Tax Key No. 477-0736-001

3. The proposed day care would enroll children from ages 4 weeks to 13 years old. The facility would employ 13 people (10 full-time and 3 part-time).

4. The aforesaid premises is zoned C-2 Neighborhood Commercial District, which permits day care facilities as a Special Use pursuant to Sec. 12.41(2) and Sec. 12.16 of the Revised Municipal Code.

5. The subject property is located on the southwest corner of S. 76 St. and W. Becher St. Properties to the east and west are zoned and developed for commercial uses, and properties to the north and south are zoned and developed for low-density residential uses.

6. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area as it has previously been used as a children's day care facility.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application for Special Use submitted by Samuel Stair, applicant and property owner of property located at 7601 W. Becher 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 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, Architectural Signage Plans. The grant of this special use permit is subject to and conditioned upon the site, landscape, screening, and architectural plans approved on July 24, 2019, 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 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. Any applicable licenses shall be applied for and approved. Capacity shall be in accordance with limits of occupancy load calculations as approved by Building Inspection and Fire Departments. Subject to applicant obtaining all required State of Wisconsin licenses and permissions.

3. Hours of Operation. Regular hours of operation will be 6:00 AM to 12:00 Midnight, 7 days a week, to be closed on all major holidays and one week for annual training.

4. Parking. Eighteen (18) parking spaces are required for the property, calculated as follows: thirteen (13) spaces for the day care use and five (5) spaces for the upper floor residential uses (includes 3 living units).

Eight (8) parking spaces are currently provided on site, including 2 ADA spaces. The Common Council has the authority to change the minimum parking requirements in accordance with Sec. 12.16(9) of the Revised Municipal Code.

5. Litter. Employees shall inspect the area and the immediate vicinity and pick up litter on a daily basis.

6. 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 10:00 p.m. and 7:00 a.m.

7. Outdoor Lighting. All outdoor lighting 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 from the property boundaries. Full cut-off lighting fixtures and/or house side shields shall be utilized on site as necessary to maintain a nuisance-free environment.

8. 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.

9. 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 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 the date the extension has been granted, the special use

shall become null and void.

10. 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.

11. 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.

12. 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.

13. Acknowledgement. That the applicant signs an acknowledgment that he/she 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.

Samuel Stair, Property owner and Applicant, d/b/a S2 Real Estate 7601 W Becher LLC

Mailed to applicant on the

_____ day of _____, 2019

City Clerk

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

ZON-R-1194-8-6-19 (Version 2)