



## Legislation Text

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File #: 2021-0625, Version: 1

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### **Title/Name/Summary**

Hashem Restaurant - Special Use Permit - 8600 159<sup>th</sup> Street Suite 4B

### **History**

#### **QUICKFACTS**

#### **PROJECT:**

Hashem Restaurant - Special Use Permit - 8600 159<sup>th</sup> Street Suite 4B

#### **PETITIONER:**

Robert Hanson - Owner

#### **REQUESTED ACTION:**

Special Use Permit

#### **PURPOSE:**

To open and operate a restaurant within 300 feet of residential parcels, located at 8600 159<sup>th</sup> Street Suite 4b in the Seville Plaza Retail Center.

#### **ATTACHMENTS:**

Responses to the Eight Special Use Standards, Floor Plan

#### **APPLICABLE REGULATIONS:**

Section 6-207 (BIZ General Retail District), Section 5-105 (Special Use Permits)

#### **PROJECT ATTRIBUTES:**

*Address:* 8600 159<sup>th</sup> Street Suite 4b

*P.I.N.(s):* 27-14-300-006-0000

*Tenant Space Size:* 2800 Square Feet

*Building Size:* ~28,000 Square Feet

*Lot Size:* 2.87 Acres

*Comprehensive Plan Planning District:* 159<sup>th</sup> & Harlem Planning District

*Comprehensive Land Designation:* Neighborhood Mixed Use

*Existing Zoning:* BIZ General Business District

*Existing Land Use:* Commercial Retail / Restaurant / Personal Service Establishment

#### **SURROUNDING ZONING AND LAND USE:**

North: R-3 Residential - Multi-Family Residential

South: BIZ General Business District - (across 159<sup>th</sup> Street) Offices / Commercial Retail

East: BIZ General Business District - (across 86<sup>th</sup> Avenue) Motor Vehicle Services

West: BIZ General Business District / R-3 Residential District - Commercial Retail / Multi-Family Residential

*PUBLIC UTILITIES:*

Provided on site

*FLOODPLAIN:*

None

*NATURAL FEATURES:*

None

*TRANSPORTATION:*

The retail center is located at the northwest corner of 159<sup>th</sup> Street (Major Arterial) and 86<sup>th</sup> Avenue (Local).

**PLANNING OVERVIEW AND BACKGROUND**

The petitioner is proposing to locate a roughly 87-seat restaurant in a 2,800 square foot tenant space within an existing 28,000 square-foot shopping center. Issues to be discussed include land use/compatibility, special use, lot size, storm sewer, sanitary sewer, water, traffic, access, parking, loading, emergency access, pedestrian and bicycle access, public transit, garbage enclosure, landscaping, buffering, and signage.

**PLAN COMMISSION DISCUSSION**

A public hearing was held before the Plan Commission on October 19, 2021. The issues discussed at the public hearing are summarized below.

Robert Hanson, owner and operator of Hashem Restaurant, spoke to the Commission about the history of the restaurant's franchise as well as his expertise in the restaurant industry.

Commissioners were in support of the restaurant occupying the tenant space. However, discussion occurred due to the recommended conditions of approval, as well as the current state of the larger commercial center.

Commissioner Zomparelli expressed support for the conditions related to garbage but asked Village staff about bicycle parking on site. Staff stated that currently, there is not bicycle parking on site. Commissioners asked if bicycle parking could be added as a condition. Village staff stated that it could be added as a condition, but it should be narrowed only to address the new restaurant as complete conformance with bicycle parking may be outside the realm of rational nexus (relevant to the Special Use request).

Commissioner Nugent stated that he is in support of the present petition, but has concerns regarding the gangway that is not properly lit and has trash within it. Staff stated that Code Enforcement could follow up on the garbage issue and that Staff would speak with the property owner regarding the lighting.

Commissioner Zataar stated that he had concerns about the conditions that are beyond the petitioners control. The two (2) conditions of approval that were specifically discussed were:

1. All garbage dumpsters must be placed within a designated garbage enclosure; and
2. The non-conforming garbage enclosure located to the north of the structure must be brought into conformance prior to full occupancy being granted;

Commissioner Zataar stated that it's inappropriate to hold a tenants Special Use Permit up for incremental improvements that are the responsibility of the property owner. Commissioner Zataar further stated that if there are Code Enforcement issues, then Code Enforcement should be sent to correct the violations via tickets and fines. Village staff responded to that by including incremental improvements as conditions of approval, such as correcting nonconformities on the site as well as compliance for otherwise Code Enforcement related items, it requires the property owner to take action as they are requesting approvals from the Village. Staff further explained that the business may open and operate under a Temporary Certificate of Occupancy until the property owner meets the conditions of the approval, at which time the restaurant would be granted a full Certificate of Occupancy

Commissioner Schussler asked about the discussions that staff has had with the property owner and if they were in agreement with the conditions pertaining to the garbage. Village staff stated that there was pushback from the property owner regarding these conditions and that they were expecting the property owner to be present to state their case against the conditions. Due to the pushback, Staff felt it was appropriate to require the improvements via conditions of approval.

Chairman Parisi stated that he agrees with his fellow Commissioners that they do not want to burden the tenant owner and instructed staff to speak with the property owner regarding the improvements.

Commissioner Nugent and Zomparelli noted that they also do not want to burden the tenant, but that the center needs improvements and that they should be required by conditions to improve the site. Commissioner Zomparelli went on to state that with Tinley Creek running behind the commercial center and with the amount of garbage around the site, there is a likelihood for further nuisances to arise.

Commissioner Zataar reiterated his position, stating that the Plan Commission is not the Code Enforcement Division and compliance should be addressed via the Code Enforcement process. Commissioner Zataar stated that due to the conditions, it's possible that the tenant will not receive their tenant improvement funds from the property owner if the property owner does not address the conditions of approval, thereby harming the tenant's likelihood of success.

Commissioner Zomparelli stated that he disagrees. If there is a new restaurant entering the plaza and garbage is presently of concern, then the issue will be exacerbated by not requiring the improvements recommended in the conditions.

Overall, the Plan Commission expressed support for the project, but an amendment was made to the recommended motion, which adjusted the language of condition #3 and removed condition #4 (discussed above).

### **PLANNING COMMISSION MOTION**

On October 19, 2021, the Plan Commission moved by a vote of 7-0 to accept and make findings of fact as discussed at this Plan Commission meeting and within the Staff Report dated October 19,

2021.

It also moved, by a vote of 7-0, to recommend to the Village Board approval of the **Special Use Permit** for Hashem Restaurant to allow for a restaurant within 300 feet of a residential property in the BIZ General Business District, subject to the following conditions:

1. Meet all Building and Land Development Code requirements;
2. Obtain the necessary permits from the Village's Building Division prior to initiating work;
3. The petitioner's garbage dumpsters must be placed within the garbage enclosure on the South end of the plaza; and
4. Submit a sign permit application to the Development Services Department for separate review. Signs are subject to additional review and approval via the sign permitting process and additional restrictions may apply.

This case is now before the Village Board of Trustees for final consideration.

**Recommended Action/Motion**

I move to approve a Special Use Permit for **Hashem Restaurant** to allow for a restaurant within 300 feet of a residential property in the BIZ General Business District, located at 8600 159<sup>th</sup> Street Suite 4B, as recommended at the October 19, 2021 Plan Commission meeting.

**THIS SECTION FOR REFERENCE ONLY (NOT NECESSARY TO BE READ)**

I move to approve the Special Use Permit for Hashem Restaurant to allow for a restaurant within 300 feet of a residential property in the BIZ General Business District, subject to the following conditions:

1. Meet all Building and Land Development Code requirements;
2. Obtain the necessary permits from the Village's Building Division prior to initiating work;
3. The petitioner's garbage dumpsters must be placed within the garbage enclosure on the South end of the plaza; and
4. Submit a sign permit application to the Development Services Department for separate review. Signs are subject to additional review and approval via the sign permitting process and additional restrictions may apply.