

**CITY OF WEST ALLIS
RESOLUTION R-2022-0359**

**RESOLUTION RELATIVE TO THE DETERMINATION FOR A CONDITIONAL
USE PERMIT FOR TACO JOHN'S, A PROPOSED RESTAURANT WITH
ACCESSORY DRIVE-THROUGH SERVICE, TO BE LOCATED ON A NEW LOT
TO BE CREATED EAST OF 6767 W. GREENFIELD AVE.**

WHEREAS, Lisa Van Handel filed with the City Clerk an application for a Conditional Use Permit, pursuant to Sec.,12.41(2), Sec. 12.16 and/or Sec. 19 of the Revised Municipal Code, to establish a restaurant, located at 6767 W. Greenfield Ave.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on June 7, 2022, 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. Pentex Restaurant Group will operate as a restaurant use within a proposed approximately 2,400-sf commercial building at 6767 W. Greenfield Ave. The property is owned by NDC, LLC. Legally described as:

All the land of the owner being located in the Northeast $\frac{1}{4}$ and Northwest $\frac{1}{4}$ of Section 3, Township 6 North, Range 21 East, City of West Allis, Milwaukee County, Wisconsin, described as follows:

A redivision of Parcel 1 of Certified Survey Map No. 5490, being a part of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ and Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 3, Township 6 North, Range 21 East, in the City of West Allis, County of Milwaukee, State of Wisconsin.

Said land located as legally described and will be subdivided into a separate lot from 6767 W. Greenfield Ave. Tax Key No. 453-0001-005.

2. The proposed restaurant space will be located within the entirety of the proposed commercial. The restaurant will provide indoor seating for approximately 46 patrons and outdoor seating for about 16 patrons.

3. The aforesaid premises is zoned C-3 under the Zoning Ordinance of the City of West Allis, which permits restaurants, outdoor dining and mixed uses as a conditional use, pursuant to Sec. 12.41(2), Sec. 12.16, and/or table Sec. 19.32 of the Revised Municipal Code.

4. The subject property is part of a block along the south side of W. Greenfield Ave. between S. 68 St. and Six Points Crossing, which is zoned for commercial uses. Properties to the north, south, east, and west are zoned and developed for commercial use.

5. Twenty (20) vehicle parking stalls and 4 bicycle parking stalls are provided. The area is also served by public transit.

NOW THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Lisa Van Handel to establish a restaurant located at 6767 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 Section 12.16 or Sec. 19 of the Revised Municipal Code, so as to permit the issuance of a conditional use permit as therein provided.

BE IT FURTHER RESOLVED that said conditional use permit is granted subject to the following conditions:

1. Site, Landscaping, Screening and Architectural Plans. The grant of this conditional use permit is subject to and conditioned upon the site, landscape, screening, and architectural plans approved on May 25, 2022, by the City of West Allis Plan Commission as provided in Sec. 12.13/19.13 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 and Fire Codes. The grant of this conditional 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.

3. Business Operations. The grant of this conditional use is conditioned upon the following:

A. Excessive odors from cooking on premises shall be controlled within limits of current technology.

B. Excessive noise and vibrations shall not emanate from the building.

C. All exterior doors and windows being kept closed after daytime hours to prevent excess noise from entering the adjacent neighborhood.

D. Exterior pest control shall be contracted on a monthly basis and/or in accordance with the City of West Allis Health department.

E. Licensed operation. Necessary licenses being obtained in conjunction with the proposed business operations.

F. Outdoor dining is allowed as an accessory to the principal use.

4. Hours of Operation. The proposed restaurant has indicated hours of operation to be from 7am to 10pm daily. With the grant of this conditional use the hours of operation shall be between 7am and 10pm daily.

5. Off-Street Parking. In accordance with Sec. 12.19 of the Revised Municipal Code, a total of 16 off-street parking spaces are required for the proposed restaurant use. In accordance with Sec. 19.44, no more than 22 off-street parking spaces shall be provided. The proposed 20 vehicle parking spaces meets both requirements, only 1 of which is required to be satisfied.

6. Signage. Signage for the overall property shall be in accordance with the City of West Allis Signage Ordinance Section 13.21 of the Revised Municipal Code; window signage shall not exceed 20 percent of each window's area and be installed on the inside of the glass.

7. Refuse Collection. All refuse to be provided by a commercial hauler. All refuse, recyclables and other waste material shall be screened from view within an enclosure 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.

8. Outdoor Lighting. The grant of this conditional use is subject to all lighting fixtures being

orientated downward and/or shielded in such a manner that no light splays from the property boundaries.

9. 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.

10. Expiration of Conditional Use Permit. Any conditional use approved by the Common Council shall lapse and become null and void 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 conditional 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 60 days of the expiration of the conditional use permit.

D. The extension, if granted, shall be valid for a period of 6 months. If no building permit has been issued and construction has not commenced within 6 months from and after the extension has been granted, the conditional use shall become null and void.

11. 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 conditional 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 conditional 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.

12. Lapse. If the applicant does not meet all of the terms and conditions set forth in this grant of a conditional use within one year of the granting thereof, then the Conditional Use Permit shall lapse and become null and void and the applicant shall forfeit any right to use the property as conferred by the Conditional Use Permit. The failure of the applicant to meet the terms and conditions of the Conditional 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 Conditional Use Permit has lapsed and become void, the applicant shall cease all operations at the property.

13. Termination of Conditional Use. If the person or entity granted the conditional 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 conditional use, then the conditional use may be terminated.

14. 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 Conditional Use Permit is conditioned on meeting the terms and conditions of this resolution.

Lisa Van Handel, Applicant

_____ day of _____, 2022

City Clerk

SECTION 1: **ADOPTION** "R-2022-0359" of the City Of West Allis
Municipal Resolutions is hereby *added* as follows:

ADOPTION

R-2022-0359(Added)

PASSED AND ADOPTED BY THE CITY OF WEST ALLIS COUNCIL

_____.

	AYE	NAY	ABSENT	ABSTAIN
Ald. Angelito Tenorio	_____	_____	_____	_____
Ald. Vince Vitale	_____	_____	_____	_____
Ald. Tracy Stefanski	_____	_____	_____	_____
Ald. Marty Weigel	_____	_____	_____	_____
Ald. Suzzette Grisham	_____	_____	_____	_____
Ald. Danna Kuehn	_____	_____	_____	_____
Ald. Thomas Lajsic	_____	_____	_____	_____
Ald. Dan Roadt	_____	_____	_____	_____
Ald. Rosalie Reinke	_____	_____	_____	_____
Ald. Kevin Haass	_____	_____	_____	_____

Attest

Presiding Officer

Rebecca Grill, City Clerk, City Of
West Allis

Dan Devine, Mayor City Of West
Allis