



# City of West Allis

Resolution: R-2020-0501

**File Number: R-2020-0501**

**Final Action: 9/1/2020**

**Sponsor(s):** Safety & Development Committee

Resolution relative to determination of an Application for a Special Use Permit for Festival Foods, a proposed large retail development grocery store, to be located at 11111 W. Greenfield Ave.

WHEREAS, Aaron Aspenson, applicant on behalf of Festival Foods, duly filed with the City Clerk an application for a Special Use Permit, pursuant to Sec. 12.42(2) and Sec. 12.16 of the Revised Municipal Code, to establish a large retail development grocery store at 11111 W. Greenfield Ave.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on September 1, 2020, at 7:00 p.m. in the Common Council Chamber 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, Aaron Aspenson on behalf of Festival Foods, has offices at 3800 Emerald Drive E, Onalaska, WI 54650. The property owner is MKB West Allis, LLC with offices 3800 Emerald Drive E, Onalaska, WI 54650.
2. The subject property is located at 11111 W. Greenfield Avenue, West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

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

Lot 1 of the Certified Survey Map No. 5671

Said land being located at 11111 W. Greenfield Ave.

Tax Key Number: 448-9993-006

3. The applicant has proposed to renovate the existing two-tenant building, including a comprehensive façade update and improvements to the property's site and landscaping conditions. The proposed grocery store will also include a coffee shop, cookout/outdoor food sales area for community groups ("brat barn"), café and dine-in area, hot food bar, take home meals, bakery, deli, community conference room, alcohol sales, catering services, and a seasonal outdoor sales event area. The use of the second tenant space is to be determined.
4. The aforesaid property is zoned C-3 Community Commercial District under the Zoning Ordinance of the City of West Allis, which permits large retail developments as a Special Use pursuant to Sec. 12.42(2) and Sec. 12.16 of the Revised Municipal Code. The property is also under an established PDD-2 Planned Development District, which will be removed as part of this project.
5. The property will be serviced by all necessary public utilities.
6. The subject property is located on the south side of Greenfield Ave., near 108th St., and is zoned for commercial purposes. Properties to the north are zoned commercial and residential. Properties to the south, east, and west are zoned as commercial and industrial.
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 of Aaron Aspenson, applicant on behalf of Festival Foods, to establish a large retail development grocery store, to be located at 11111 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 Sec. 12.16 and Section 12.42(2) 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 by the West Allis Plan Commission on August 26, 2020, which includes requirements for Phase 2 plans to include pedestrian connections and addressing how the property interacts with the lot located at the northwest, also owned by the applicant. No alterations or modification to the approved plan shall be permitted without approval by the West Allis Plan Commission.
2. Building Plans and Fire Codes. 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. Seating capacity shall be in accordance with limits of occupancy load calculations as approved by Building Inspection and Fire Departments.
3. Parking Requirements. Off-street parking for 417 parking stalls is currently proposed. In accordance with Sec. 12.19 of the Revised Municipal Code, up to 311 off-street parking spaces are required for retail use. It is anticipated that the total number of parking stalls will be reduced with the inclusion of a pedestrian connection through the parking area.
4. Hours of Operation. The hours of operation are 5am to midnight, 364 days a year, with more limited hours in the wine and spirits section in accordance with licensing requirements and per State of Wisconsin law.
5. Signage. All signage shall be in accordance with the West Allis Signage Ordinance and as approved by Plan Commission.
6. 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.
7. 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 structure.
8. 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 to match the building. 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.
9. Pagers/Intercoms. The use of outdoor pagers, intercoms or loudspeakers shall not be permitted on site.
10. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light spays from the property boundaries.
11. 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.
12. Noxious Odors, Etc. The facility 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. Outdoor Storage and Display. No outdoor storage, sales or display shall be permitted on site unless approved by the Plan commission and in accordance with Chapter 12 of the Revised Municipal Code.

15. 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.

16. 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.

17. 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.

18. 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.


19. 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.

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Brian Bauman, Festival Foods (tenant) and MKB West Allis, LLC (property owner)

Mailed to applicant on the

\_\_1\_\_ day of \_\_September\_\_, 2020

  
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City Clerk


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

ZON-R-1228-9-1-20

**ADOPTED** 9/1/2020

  
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**Rebecca Grill**

**APPROVED** 9/1/2020

  
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**Dan Devine**