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Resolution relative to determination of a Special Use Permit for Zignego Ready Mix, Inc., an existing ready mix concrete business, to amend the terms of their existing Special Use Permit for the overall premise, and to make various site changes on properties located at 4** S. Curtis Rd., 5** S. Curtis Rd., 521 S. Curtis Rd., 551 S. Curtis Rd. and 571 S. Curtis Rd.

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WHEREAS, Bob Zignego d/b/a Zignego Ready Mix, Inc., and Zignego Plant 2 LLC (hereinafter the “applicants”), duly filed with the City Administrative Officer-Clerk/Treasurer an application for a special use permit, pursuant to Sec. 12.45(2) and Sec. 12.16 of the West Allis Revised Municipal Code, for the purpose of establishing an updated Special Use Permit, Certified Survey Map, and establishing updated Site, Landscaping and Architectural Plans for proposed improvements to the overall Zignego Ready Mix operation, an existing business, located at 571 S. Curtis Rd., 551 S. Curtis Rd., 521 S. Curtis Rd., 5**S. Curtis Rd. and 4** S. Curtis Rd.; and,

WHEREAS, after due notice, a public informational meeting was conducted on June 15, 2017 to inform the neighborhood of the proposal and obtain comments on the project in advance of the Plan Commission meeting and Common Council/public hearing.

WHEREAS, after due notice, a public hearing was held by the Common Council on July 11, 2017, 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 “Applicants,” Bob Zignego d/b/a Zignego Ready Mix, Inc., and Zignego Plant 2 LLC, have offices at W226 N2940 Duplainville Rd., Waukesha, WI 53186. The tenant/operator utilizes and the property owners own five (5) abutting parcels in West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All the land of the owner being located in the Northwest ¼ of Section 31, Township 7 North, Range 21 East, City of West Allis, Milwaukee County, Wisconsin, described as follows:

Beginning at the Southeast corner of Parcel 1 of the Certified Survey Map No. 4659 and West right-of-way line of West Curtis Road; thence Westerly, 1017.67 feet, along the South line of said Certified Survey Map No. 4659; thence Northerly, 253.68 feet; thence Northeasterly, 435.84 feet; thence Northeasterly, 158.26 feet, to the said West right-of-way line of West Curtis Road; thence Southeasterly, 601.99 feet, along said West right-of-way line to the point of curvature; thence Southeasterly, 162.09 feet, along the arc of the convex curve, with a radius of 550.91 feet and chord length of 161.50 feet, to the Point of Beginning.

2. Said land including the following addresses and Milwaukee County Tax ID numbers which will be combined via Certified Survey Map into one lot of record:

571 S. Curtis Rd. 413-9990-002

551 S. Curtis Rd. 413-9990-003

521 S. Curtis Rd. 413-9990-007

5** S. Curtis Rd. 413-9990-008

4** S. Curtis Rd. 413-9992-001

3. The aforesaid lands are zoned M-1 Manufacturing District under the Zoning Ordinance of the City of West Allis, which permits cement products, including but not limited to concrete central mixing and proportioning plants, stone processing/crushing, and fueling as special uses, pursuant to Sec. 12.45(2) and Sec. 12.16 of the Revised Municipal Code. These permitted operations as enumerated above are considered “manufacturing” activities pursuant to Wis. Stat. 70.995 and shall not constitute “construction” or “construction noise” pursuant to West Allis Revised Municipal Code Sections 7.035(2)(e) or 7.035(9)(e).

4. The subject property is part of a block along the west side of S. Curtis Rd. between W. Theodore Trecker Way and W. Adler Ln., which is zoned for manufacturing uses. Properties to the north and east are developed as manufacturing and commercial uses. Properties to the west are located in the City of Brookfield. Properties to the south are utilized as park land in the City of West Allis.

5. Existing uses. Cement products and concrete mixing and proportioning uses, stone processing/crushing are special uses per 12.45(2) of the Revised Municipal Code. The applicant has indicated the following uses will be conducted on site: (a) transfer and stockpiling of raw materials in the form of various types of sand and stone, manufacture, and loading of ready mixed concrete; (b) transfer and stockpiling of raw materials in the form of broken concrete and asphalt, crushing, and transfer, stockpiling, and loading of processed recycled concrete and asphalt; (c) office and maintenance functions for coordinating and implementing concrete and crushing operations; (d) selling and distributing materials manufactured; and (e) refueling of equipment. The activities referenced shall be delineated on the approved Site, Landscaping and Architectural Plans. Stone processing uses are limited to the boundaries indicated on the Site and Landscape Plan.

6. Proposed Improvements. The Applicants’ proposal involves the construction of two storage buildings on site (one for storage of equipment and one for housing an existing water filtration system) and the extension of a sound wall. As part of the building permit process to construct the above referenced improvements, the City has required that the applicant consolidate the existing 5 properties under one property (and one tax key number) via Certified Survey Map, thereby establishing an amended special use permit for the overall property (replacing the existing Special Use Resolution No. 25462 adopted 9/2/1997), and establishing an amended site, landscaping and architectural plan for the overall property.

The applicants' site, landscaping and architectural proposal includes landscaping/screening upgrades and site modifications, that will be installed with the grant of this special use, including consolidation of driveways onto S. Curtis Rd. (closure of an existing driveway), modifying driveway widths to promote left turns from the property onto S. Curtis Rd., a new sound wall (approximately 25-ft in height) and fence (approximately 10-ft in height) along the south property line, additional greenspace on the east side of the site, delineation of the location on site and height of material storage areas, and a monitoring system to measure material storage height to ensure compliance with the conditions of approval herein.

7. The City finds that the proposed improvements should not adversely contribute to traffic volumes or traffic flow in the area as the area offers off-street parking, the site is situated upon an established truck route. Traffic to and from the site is expected to be consistent with historical operations, subject to the requirements of particular contracts.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the special use application of Zignego Ready Mix, Inc. and **Zignego Plant 2 LLC**, an existing concrete and ready mix business, to establish an amended Special Use Permit, Certified Survey Map, and updated site, landscaping and architectural plans for proposed improvements to the overall Zignego Ready Mix operation located at 571 S. Curtis Rd., 551 S. Curtis Rd., 521 S. Curtis Rd., 5**S. Curtis Rd. and 4** S. Curtis Rd., 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.

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

1. Site, Landscaping, Screening, Signage and Architectural Plans. The grant of this special use permit is subject to and conditioned upon approval of a Site, Landscape and Screening and Architectural Plan(s) approved July 26, 2017 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. Certified Survey Map. The grant of this special use is subject to Common Council approval of a Certified Survey Map combining the five (5) existing parcels into one lot of record via certified survey map and said document being recorded with Milwaukee Co. Register of Deeds.

3. 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 by the Fire Department.

4. Licenses and Permits. The applicant shall obtain all required Local and State of Wisconsin licenses and permits.

5. Public Relations. To ensure communications between the business use/operator, the City and the neighborhood, a public call-in hotline phone number and/or online means of contacting the business operator (an on-site office manager), shall be implemented by the operator, and shared with the City. The contact information shall also be posted on premise in a location visible from S. Curtis Rd.

6. Paving and Dust Control. The grant of this special use is conditioned upon the following:

A. The following definitions apply to this Special Use Agreement:

1. "Concrete Operations" means transfer and mixing of raw materials to make concrete; the loading and transporting of concrete; and sale of associated building supply products and materials.

2. "Construction Season" shall be between April 1 through November 30th, weather permitting.

3. "Crushing Operations" means transfer of unprocessed raw material to a crusher, and the crushing, sorting, and stockpiling of processed material.

4. "Daytime" means the hours between 7:00 a.m. and 9:59 p.m. per the City of West Allis Revised Municipal Code Sec. 7.035. "Nighttime" shall be those hours which are not "Daytime."

B. All internal roads and storage areas shall be paved and best practices shall be used to maintain same in a dust and debris free condition;

C. Cleaning measures shall include use and maintenance of a water filtration system on premise to remove dirt and sediment from water which is used to clean and irrigate the property. A truck and tire wash being maintained on premise per the approved site plan to remove dust, dirt, mud or other debris from the vehicles each time before they leave the site and enter the public right-of-way. Exterior water systems are not used when temperatures are at or near freezing.

D. Dust control measures shall include, but not limited to, on site vacuuming and/or sweeping, watering paved surfaces, and watering stock piles shall be employed.

E. Street vacuuming and/or sweeping shall be conducted by the applicant along the

abutting street right-of-way frontage along S. Curtis Rd. and up to W. Theo Trecker Way. The frequency of vacuuming and/or sweeping shall be conducted at a minimum daily during the construction season on 1 days when actually operating. Should a specific street cleaning need arise unbeknownst to the operator, notice shall be given to the on-site office manager by contacting the public relations hotline phone number, and/or online notification system.

F. All machinery and equipment shall be constructed, maintained and operated in such a manner as to minimize dust, noise and vibration. The crushing and concrete operations shall be maintained in good operating condition.

7. Hours of Operation. With the grant of this special use, the following hours of operation are established and shall be maintained:

A. Crushing Operations. The hours of operation for crushing shall be only during Daytime hours from 7:00 a.m. to 9:59 p.m. Monday through Friday, and 8:00 a.m. to 2:00 p.m. on Saturday. There shall be no crushing on Sunday or during nighttime hours under any circumstances. Maintenance and/or repair of machinery is permitted at any time, provided no operation of the crusher occurs outside of permitted day time hours.

B. Concrete Operations. The hours of operation for concrete operations will be from 6:00 am to 10:00 p.m. Monday through Friday, and 6:00 a.m. to 2:00 p.m. on Saturday. It is acceptable to perform Concrete Operations during night time hours during the week and on weekends to address emergency road repair that requires immediate remediation and/or to provide concrete materials to Wisconsin Department of Transportation awarded contracts or those similar contracts awarded through a county, city, village, or town government, whether those contracts are directly awarded to Applicants or Applicant is a subcontractor for the project.

8. Noise Control. The grant of this special use is conditioned upon the following:

A. Vehicles shall not load or unload after daytime hours of operation except as authorized as part of Concrete Operations in Paragraph 7.B., above. Vehicles unloading after daytime hours of operation shall unload at the ground/grade level when dumping large / bulk pieces of road material, shall unload debris within the space dictated within the attached site and landscaping plan exhibit, and shall take all other necessary steps to comply with West Allis noise ordinance, sec. 7.035.

B. Nothing contained herein shall be deemed to be an approval or acceptance by the City of operations in violation of section 7.035 of the West Allis Municipal Code.

9. Material Storage and Soundwall. With the grant of this special use:

A. All outdoor storage on site will be in accordance with the approved site, landscaping and screening plan as approved by the West Allis Plan Commission.

B. Stockpiles of raw and/or processed material shall not exceed the height of 38-ft. nor exceed the coverage limits established per the approved Site, landscaping and screening plans.

C. A sound and screen wall extension to the existing walls on site shall be installed on the south side of the property per the approved site plan, as approved by the West Allis Plan Commission.

D. A measurement device and/or method for verifying the height of the outdoor storage, shall be implemented to ensure compliance/maintenance with the conditions of this special use.

10. Abatement of Public Nuisances. In accordance with Chapter 18 of the Revised Municipal Code, Public Nuisances are prohibited. Public Nuisances include but are not limited to blighted properties due to an accumulation thereon of junk or other unsightly debris. Enforcement and abatement of public nuisances, including revocation of the Special Use Permit, may take place in accordance with 18.04 of the Revised Municipal Code.

11. Truck Routes. With the grant of this special use, plant operations shall be in accordance with the City of West Allis Truck Map as conforming to the requirements of this section.

12. Off-Street Parking. With the grant of this special use, the overall use on the property shall provide 56 off-street parking spaces on site as required per section 12.19 of the Revised Municipal Code. The off-street parking requirement for the subject property has been determined as follows:

- The 3,600-sf building (3,000-sf storage and 600-sf office) on the southeast side of property requires 4 parking spaces
- The 5,500-sf crusher building on the west side of the property (1 space per 1,500-sf) requires 4 spaces
- Two storage buildings (30-ft. x 50-ft. and 30-ft. x 60-ft.) south and west sides of the property (1 space per 1,500-sf) requires 2 spaces
- The 6,100-sf maintenance/shop building located centrally on the property (1 space per 300-sf) requires 20 spaces
- An approximate 130,000-sf outdoor storage area on the property (1 space per 5,000-sf) requires 26 spaces

13. Signage. Signage is subject to the City of West Allis signage ordinance requirements per Sec. 13.21 of the Revised Municipal Code.

14. 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.

15. Lighting. The grant of this special use is subject to a lighting/photometric plan. All lighting fixtures on site shall be orientated and/or shielded in such a manner that no light spills from the property boundaries.

16. Litter, Monitoring and Refuse Collection. Employees shall inspect the area and immediate vicinity and pick up litter on a daily basis. All refuse to be provided by a commercial hauler. Refuse, recyclables, and other waste materials for the property will be fully enclosed within an approved 4-sided enclosure and shown on the approved site plan.

17. 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.

18. 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.

19. 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.

20. Lapse and Termination of the Special Use. Lapse of the Special Use will governed by West Allis Revised Municipal Code section 12.16(11)(b) and (c) and the timelines and procedures set forth therein. Termination of the Special Use shall be governed by West Allis Revised Municipal Code Section 12.16(13). Prior to termination, the City shall provide written notice of the alleged violation and thirty (30) days to cure the defect. If the Applicant fails to cure the defect to the reasonable satisfaction of the City within thirty (30) days, the City may consider that violation, and any other violations or defects that have occurred, as a violation of the terms and/or conditions of this Special Use Permit and take necessary steps to terminate the Special Use. Nothing in this agreement prohibits the City from citing the Applicant for applicable violations of the West Allis Municipal Code.

21. Nonconforming Use Status. “The terms of this Special Use Permit shall apply to the entire described parcel and shall supersede any claimed nonconforming use rights. If Applicants choose to assert any claimed nonconforming use rights with regard to part or all of the described parcel, then this Special Use Permit shall become null and void. Applicants hereby waive any right to the procedures set forth in section 12.16(13) of the West Allis Revised Municipal Code as it relates to the exercise of any claimed nonconforming use rights. During the duration of this Special Use Permit, Applicants’ rights, if any, to nonconforming status shall be maintained such that Applicants shall not forfeit the ability to claim that whatever nonconforming use rights they have were in continuous use.”

22. Acknowledgement. The Applicants acknowledge that they have reviewed these terms and conditions and will abide by them. The undersigned Applicants agree to the terms and conditions and have agreed that the grant of the Special Use Permit is conditioned on meeting the terms and conditions of this resolution.

Zignego Ready Mix, Inc. (“operator”),

Zignego Plant 2 LLC (“property owners”),

Mailed to applicant on the

_____ day of _____, 2018

City Clerk

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

ZON-R-1107-Amended-9-4-18