



# City of West Allis

Resolution: R-2019-0090

**File Number: R-2019-0090**

**Final Action: 2/18/2019**

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

Resolution relative to determination of Special Use Permit for a proposed commercial parking lot to replace the existing building located at 9422-30 W. National Ave.

WHEREAS, 249 Prospect LLC, by Attorney John Fuchs, 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 demolish the existing commercial building and construct a parking lot for private passenger vehicles located at 9422-30 W. National Ave.

WHEREAS, after due notice, a Public Hearing was held by the Common Council on February 5, 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, 249 Prospect LLC, is seeking to demolish the existing building and construct a parking lot at 9422-30 W. National Ave.
2. The applicant, 249 Prospect LLC, has acquired the building at 9422-30 W. National Ave.

All the land of the owner being located in the Southeast  $\frac{1}{4}$  of Section 5, Township 6 North, Range 21 East, in the City of West Allis, Milwaukee County, State of Wisconsin, described as follows:

Lots 33 and 34 in Block 3 of the McGeoch Highlands subdivision and part of Lot 1, Certified Survey Map No. 8049, more particularly described as follows: Beginning at the Northeast corner of said Lot 1, thence Southerly, 25.00 feet, along the East lot line; thence Westerly, 15.00 feet; thence Northerly, 25.00 feet, to the North lot line; thence Easterly, 15.00 feet, along the said North line to the Point of Beginning.

Said land being located at 9422-30 W. National Ave.

Tax Key No. 479-0674-003

3. The applicant is proposing to establish a parking lot for private passenger vehicles located at 9422-30 W. National Ave.
4. The aforesaid premises is zoned C-2 Neighborhood Commercial District, under the Zoning Ordinance of the City of West Allis, which permits parking lots and structures for the storage of private passenger automobiles as a Special Use, pursuant to Sec. 12.41(2) of the Revised Municipal Code.

5. Properties to the north are zoned and developed for low density residential uses. Properties to the east, west, and south are zoned and developed for commercial uses.
6. The proposed development, as conditioned, should not adversely contribute to traffic volumes or traffic flow in the area.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the duly filed application of 249 Prospect LLC for a Special Use Permit, pursuant to Sec. 12.36(3) 12.41(2) and Sec. 12.16 of the Revised Municipal Code, to demolish the existing commercial building and construct a parking lot for private passenger vehicles located at 9422-30 W. National 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 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, and Architectural Plans. The grant of this Special Use Permit is subject to and conditioned upon the site, landscaping and architectural plans approved January 23, 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. The grant of this special use is further conditioned upon a revised architectural detail for retaining wall and fence along the site subject to approval by the Department of Development.
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 permits shall be applied for and approved.
3. Off-Street Parking. Off-street parking will be provided in accordance with the approved site and landscaping plan. Site changes to the approved site and landscaping plan are subject to Plan Commission consideration. The parking lot as proposed to provide twenty-three (23) parking stalls and shall include one (1) ADA space.
4. Litter. The property owner shall maintain and inspect the site and immediate vicinity and pick up litter on a daily basis.
5. Driveway permit. Driveway permits being applied for and granted by the Engineering Department.
6. Signage. No signage has been proposed for the parking lot. Signage shall be in accordance with the signage ordinance sec. 13.21 of the Revised Municipal Code. 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 without Plan Commission approval.
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 shall be utilized on site.

8. Pagers, Intercoms. The use of outdoor pagers, intercoms, or loud speakers shall not be permitted on site.

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 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.

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.

D. The special use is further subject to submittal of a complete list of ownership to the City Attorney.

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 applicants and property owner sign an acknowledgment that they have received these terms and conditions and will abide by them.

The undersigned applicants and property owner agree 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.

\_\_\_\_\_  
Menjinder Bhambra, as member of 249 Prospect LLC

Mailed to applicant on the  
25 day of February, 2019

  
\_\_\_\_\_  
City Clerk

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

ZON-R-1164-2-18-19-Version 2

**ADOPTED AS AMENDED** 2/18/2019

  
\_\_\_\_\_  
**Steven A. Braatz, Jr., City Clerk**

**APPROVED AS AMENDED** 2/22/19

  
\_\_\_\_\_  
**Dan Devine, Mayor**