



# City of West Allis

## Legislation Details (With Text)

**File #:** R-2007-0243 **Version:** 1

**Type:** Resolution **Status:** Adopted

**File created:** 10/16/2007 **In control:** Safety and Development Committee (INACTIVE)

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**Title:** Resolution relative to determination of Special Use Permit for extended hours of operation for proposed Subway restaurant, to be located within Lincoln Plaza at 2251 S. 108 St. (Tax Key No. 481-9990-001)

**Sponsors:** Safety and Development Committee (INACTIVE)

**Indexes:**

**Code sections:**

**Attachments:** 1. R-2007-0243 Packet Doc

Date	Ver.	Action By	Action	Result
10/16/2007	1	Common Council		
10/16/2007	1	Safety and Development Committee (INACTIVE)		
10/16/2007	1	Common Council		
10/16/2007	1	Common Council	Adopted	Pass
10/16/2007	1	Safety and Development Committee (INACTIVE)		Pass

Resolution relative to determination of Special Use Permit for extended hours of operation for proposed Subway restaurant, to be located within Lincoln Plaza at 2251 S. 108 St. (Tax Key No. 481-9990-001)

WHEREAS, Kurt Hodermann d/b/a Subway, duly filed with the City Administrative Officer-Clerk/Treasurer an application for a Special Use Permit, pursuant to Sec. 12.43(2) and Sec. 12.16 of the Revised Municipal Code, for a Subway Restaurant to be located within leased space (formerly Extreme Pita) in the Lincoln Plaza Shopping Center located at 2251 S. 108 St.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on October 16, 2007, 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, Kurt Hodermann d/b/a Subway has offices at PO Box 668, Brookfield, WI 53008.
2. The applicant currently leases the property at 2251 S. 108 St., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

Lands located in the Southeast  $\frac{1}{4}$  of Section 6, Town 6 North, Range 21 East, City of West Allis, Milwaukee County, Wisconsin.

The East 350 feet of the South 541.20 feet of said Section 6, excluding the North 60 feet of the East 190 feet thereof and excluding the street right-of-way on South 108 Street, South 109 Street and West Lincoln Avenue.

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Said land being located at 2225-2267 S. 108 St. (Lincoln Plaza Shopping Center)

3. The applicant proposes to expand the allowable hours for the site from the current hours of 10:30 a.m. to 10:00 p.m., Monday thru Saturday to 7:30 a.m. to 10:00 p.m seven days per week.
4. The aforesaid premise is zoned C-4 Regional District under the zoning ordinance of the City of West Allis, which permits restaurants as a special use, pursuant to Section 12.43(2) of the Revised Municipal Code.
5. The property is serviced by all necessary public utilities.
6. The subject property is part of a block between W. Lincoln Ave. and W. Grant St. on the west side of S. 108 St. which is zoned for commercial purposes. Properties in all directions are developed as commercial.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that Kurt Hodermann, d/b/a Subway, be and is hereby granted a special use for the proposed extension of hours hereinabove described 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 Sec. 12.43(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, landscape, and screening and architectural plans approved by the City of West Allis Plan Commission on September 26, 2007, 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. Building Plans and Fire Codes. The grant of this Special Use Permit is subject to building plans being submitted to and approved by the Department of Building Inspection and Zoning and by the Fire Department.
3. Parking Requirements. A total of one hundred forty-five (145) parking spaces are required for the property and a total of one hundred forty-eight (148) are provided on site.
4. Hours of Operation. Hours of operation shall be from 7:30 a.m. to 10:00 p.m. seven days per week.
5. Window Signage. Window signage shall not exceed twenty (20) percent of the glazed portion of each window frame.
6. Refuse Collection. Refuse Collection is to be provided by commercial hauler.
7. Window Signage. Any building window signage shall not exceed twenty percent (20%) of each window's area.
8. 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.
9. Litter. Employees shall inspect the site 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.
10. 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, abutting sidewalk.

11. Noxious Odors, Etc. The restaurant shall not emit foul, offensive, noisome, noxious, odorous or disagreeable odors, gases or effluvia into the air. Mechanical systems shall be maintained to efficiently remove noxious odors.

12. 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.

13. 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.

Mailed to applicant on the  
\_\_\_\_\_ day of \_\_\_\_\_, 2007

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Assistant City Clerk

cc: Dept. of Development  
Dept. of Building Inspections and Zoning  
Div. of Planning

ZON-R649-10-16-07

