



City of West Allis

Legislation Text

File #: R-2013-0172, **Version:** 1

Resolution relative to determination of Special Use Permit for proposed extension of hours for Taco Bell, located at 11011 W. National Ave.

WHEREAS, Mary LaHarulo, of Taco Bell of America LLC., 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 the proposed extension of hours for the existing Taco Bell restaurant, located at 11011 W. National Ave.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on August 6, 2013, 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, Mary LaHarulo, of Taco Bell of America LLC., has offices at 1 Glen Bell Way, Irvine, CA 92618
2. Taco Bell of America, Inc., leases the property at 11011 W. National Ave., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All the land of the owner being located in the Southeast $\frac{1}{4}$ of Section 7, Township 6 North, Range 21 East, City of West Allis, Milwaukee County, State of Wisconsin, describes as follows:

Parcel 1 of the Certified Survey Map No. 813 and Parcel 2 of the Certified Survey Map No. 7902.

Tax Key No. 520-9965-019

Said land being located at 11011 W. National Ave.

3. The applicant is proposing to expand their existing hours of operation.
4. The aforesaid premise is zoned C-4 Regional Commercial District under the Zoning Ordinance of the City of West Allis, which permits restaurants with drive-thru facilities as a Special Use, pursuant to Sec. 12.43 (2) and Sec. 12.16 of the Revised Municipal Code.
5. The subject property is part of a block along the west side of S. 108 St. between W. National Ave. and W. Oklahoma Ave., which is zoned for commercial purposes. Properties to the north, south and east are all developed for commercial. Properties to the west are developed for both commercial and residential purposes.
6. The proposed development 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 application of Mary LaHarulo, of Taco Bell of America LLC, for the proposed extension of hours for the existing Taco Bell, 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 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, Signage and Architectural Plans. The grant of this Special Use Permit is subject to and conditioned upon the site plan initially approved on December 15, 1999 by the City of West Allis Plan Commission and most recently reviewed by the Plan Commission on July 24, 2013, 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 is subject to building plans being submitted to and approved by the Department of Building Inspections and Zoning and by the Fire Department.
3. Restaurant Operations. The restaurant will be utilized for dine-in and drive-thru service. Outdoor dining shall be permitted on site.
4. Hours of Operation. The hours of operation are seven days a week 5:00 a.m. to Midnight for dine-in service and 5:00 am to Midnight for drive-thru service.

The City of West Allis, by official action of the Common Council, may revoke the authorization for the applicant to have its drive-thru window service open until Midnight, if there are significant law enforcement complaints. This revocation may be done on one weeks' notice after official written warning, with the applicant required to cease such operations within three (3) days of Common Council action.

5. Off-Street Parking. The restaurant requires a total of 19 parking spaces, including 1 ADA stall. A total of 13 surface stalls are provided on site (including 2 ADA spaces). An additional 38 surface stalls are provided on the adjoining lot, which is owned and solely utilized by Taco Bell of America for this purpose. The drive-thru will provide stacking for 9 vehicles.
6. Signage. The grant of this special use is subject to all signage plans being in compliance with the City of West Allis signage ordinance.
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. Window Signage. Any building window signage shall not exceed twenty (20) percent of each window's area.
9. 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.
10. Noxious Odors, Etc. The restaurant 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.

11. Pollution. The restaurant 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.

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.

14. 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.

15. 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, the special use may be terminated.

16. Acknowledgement. That the applicant signs 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.

Mary LaHarulo, Taco Bell of America LLC.

Mailed to applicant on the
_____ day of _____, 2013

Assistant City Clerk

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

ZON-R-923-8-6-13-bjb