



# City of West Allis

## Legislation Text

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**File #:** R-2008-0271, **Version:** 1

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Resolution relative to determination of Special Use Permit for Flaming Grill, a proposed restaurant to be located at the former Chalet Restaurant at 6215 W. National Ave. (Tax Key No. 454-0073-001)

WHEREAS, Ackasone Virasith, d/b/a Flaming Grill, LLC, duly filed with the City Administrative Officer-Clerk/Treasurer an application for a Special Use Permit, pursuant to Sec. 12.42(2) and Sec. 12.16 of the Revised Municipal Code, to operate a restaurant with a bar within the existing building located at 6215 W. National Ave.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on December 16, 2008, 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, Ackasone Virasith, d/b/a Flaming Grill, LLC, resides at 2008 Tall Grass Circle, Waukesha, WI 53188.
2. The applicant has a valid offer to purchase the property at 6215 W. National Ave., 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 3, Township 6 North, Range 21 East, City of West Allis, Milwaukee County, State of Wisconsin, describes as follows:

Lots 1 and 2, being part of Block 3 in Liberty Heights Subdivision.

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Said land is located at 6215 W. National Ave.

3. The Common Council terminated the previous special use for a restaurant at this site on January 17, 2006. The applicant is proposing to purchase the property and operate a new American Grill restaurant. The applicant is also proposing to replace the existing façade, upgrade the site with new landscaping, and provide a pedestrian walkway or vehicle drive from the site to the city parking lot to the south of the building. An easement agreement will also be provided for connection to the Community Development Authority's parking lot storm water lateral.
4. The aforesaid premises is zoned C-3 Community Commercial District under the Zoning Ordinance of the City of West Allis, which permits restaurants and taverns as a special use, pursuant to Sec. 12.42(2) and Sec. 12.16 of the Revised Municipal Code.
5. The subject property is part of a block along the south side of W. National Ave. between S. 62 St. and S. 63 St., which is zoned for commercial purposes. Properties to the north, west, and east are zoned for commercial use. Properties to the south are zoned residential use.
6. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area as the previous occupant operated a restaurant and a bar.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Ackasone Virasith, d/b/a Flaming Grill, LLC, to operate a restaurant with a bar, 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. 12.42(2) and 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 and Architectural Plans. The grant of this Special Use Permit is subject to and conditioned upon the site, landscape, screening and architectural plans to be approved 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. A signage plan shall be submitted to the Department of Development for review.
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. Off-Street Parking. Off-street parking spaces for 11 vehicles will be provided on site, including one (1) ADA stall. The Zoning Code requires 33 spaces for the restaurant and bar. An additional 21 parking spaces are available within the City parking lot to the southeast, and street parking is available along W. National Ave. Under this resolution, the Common council grants the Department of Development staff the authority to approve changes in the approved conditions, including but not limited to, up to five percent (5%) of the required parking.
4. Hours of Operation. The hours of operation for the new restaurant are 6:00 a.m. to 2:00 a.m., seven days per week. Deliveries will be made from 8:00 a.m. to 5:00 p.m., weekdays only. The bar will be open in accordance with the closing hours mandated by state law. Outdoor dining hours of operation shall be closed at 10:00 p.m. daily.
5. Outdoor Dining Area. The outdoor dining area shall be permitted on the roof of the one-story portion of the restaurant, meeting all required building and fire code regulations. The outdoor dining area shall be adequately monitored by staff.
6. 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.
7. Easement. An easement agreement shall be obtained by the applicant from the Community Development Authority (CDA) for connection to the CDA's parking lot storm water lateral.
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. 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.
11. Refuse Collection. Refuse collection to be provided by commercial hauler.
12. Pagers, Intercoms. The use of outdoor pagers, intercoms, or loud speakers shall not be permitted on site.
13. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light splays from the property boundaries.
14. 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.
15. Sales and Floor Plans. The grant of this Special Use Permit is subject to and conditioned upon the following criteria:
  - A. Forty-Nine (49%) percent or more of the establishment's revenues must be from food sales on a calendar year basis;
  - B. The floor plan shall remain as depicted on the floor plans that were submitted to the Plan Commission. Any material changes must first be approved by the Common Council;

C. The second floor may serve as either a meeting room or a special events banquet hall.

16. 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.

17. 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.

18. 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.

19. 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.

\_\_\_\_\_  
(Applicants Name)

Mailed to applicant on the  
\_\_\_\_\_ day of \_\_\_\_\_ 2008

Assistant City Clerk

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

ZON-R-699-12-16-08