



City of West Allis

Legislation Text

File #: R-2016-0154, **Version:** 1

..Title

Resolution relative to determination of Special Use Permit for proposed restaurant with outdoor dining at the West Allis Farmers Market property to be located at 6503 W. National Ave.

WHEREAS, Ian Martin, d/b/a Mandel Group, duly filed with the City Clerk an application for a Special Use Permit, pursuant to Sec. 12.16, 12.42(2) and 12.61 of the Revised Municipal Code of the City of West Allis, for a proposed restaurant with outdoor dining to be located at 6503 W. National Ave.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on June 7, 2016 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. Ian Martin, d/b/a Mandel Group, Inc., has offices at 301 E. Erie St., Milwaukee, WI 53202.
2. The Farmers Market property is owned by the City of West Allis and a small portion of the existing property will be utilized by the Mandel Group, Inc. for the development of a restaurant with outdoor dining. The subject property is located at 6503 W. National Ave., West Allis, Milwaukee County, Wisconsin; more particularly described as follows, to-wit:

All the land of the owner being located in the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ and the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 3, Township 6 North, Range 21 East, City of West Allis, Milwaukee County, State of Wisconsin, describes as follows:

Lot 1 in Block 4 of the Assessor's Plat No. 269.

Tax Key No. 454-0256-000

Said land being located at 6503 W. National Ave.

3. The new building will be approximately 2,500 square feet and will be occupied by a to-be-determined tenant, who will operate a restaurant with outdoor dining. The aforesaid premise is proposed to be zoned with a PDD-2 overlay with a base C-3 Community Commercial District zone, which permits restaurants with outdoor dining as a Special Use, pursuant to Sec. 12.16, 12.42(2) and 12.61 of the Revised Municipal Code.
4. The developer is proposing to develop and lease the property from the City of West Allis to establish a food-based redevelopment focused on the Farmers Market.
5. The subject property is located south of W. National Ave. between the S. Six Points Crossing and S. 65 St. Properties to the north are zoned and developed for high density residential uses. Properties to the south and

east are zoned and developed for low density residential use. Properties to the west are proposed to be a mixture of commercial and multi-family residential uses.

6. The use, value and enjoyment of other property in the surrounding area for permitted uses will not be substantially impaired or diminished by the establishment, maintenance or operation of the special use.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application submitted by Ian Martin, d/b/a Mandel Group, for a proposed restaurant with outdoor dining at the West Allis Farmers Market property to be located at 6503 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 Sec. 12.16 of the Revised Municipal Code, so as to permit the issuance of a Special Use Permit as therein provided.

NOW, THEREFORE BE IT FURTHER RESOLVED that said Special Use Permit is granted subject to the following conditions:

1. Lease Agreement. Common Council approval of a lease agreement by and between the City of West Allis and the developer.
2. Site, Landscaping, Screening and Architectural Plans. The grant of this Special Use Permit is subject to and conditioned upon the site, screening and architectural plans approved by the West Allis Plan Commission on June 6, 2016. No alterations or modification to the approved plan shall be permitted without approval by the West Allis Plan Commission.
3. 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. All applicable Federal, State and local licenses being applied for and approved. Seating capacity shall be in accordance with limits of occupancy load calculations as approved by Building Inspection and Fire Department.
4. Off-Street Parking. In accordance with Sec. 12.19 of the Revised Municipal Code, up to 17 parking spaces (at a parking ratio of 1:150) are required for the proposed restaurant with outdoor dining use, depending on the final floor plan.

The Farmers Market property currently provides 46 parking spaces; some of the existing spaces may be removed for the proposed restaurant and outdoor dining. In exchange, shared parking for about 76 parking spaces for Farmers Market overflow shall be provided to the west of the Farmers Market property in an area being developed by Mandel Group for commercial uses.

With the approval of this special use, the Common Council agrees to modify the minimum parking requirement in accordance with Sec. 12.16(9)(a) of the Revised Municipal Code.

5. Hours of Operation. With the approval of this special use, Common Council grants the following hours of operation for the use: The restaurant with outdoor dining may be open seven days a week from 6:00 am until State of WI mandated closing times. Any outdoor seating areas may be open between 6:00 am and midnight.

6. Outdoor Dining Area. The outdoor dining area shall be located per the Plan Commission's approved Site Plan and shall be operated in accordance with all applicable State and local regulations.
 - A. Boundaries. The outdoor dining area shall not extend beyond the approved Site Plan. A sign shall be erected near the exit(s) indicating that "No alcoholic beverages are permitted beyond this point."
 - B. Monitoring. The outdoor dining area shall be adequately monitored by staff.
7. Signage. Signage shall be permitted in compliance with the West Allis signage ordinance or approved via a variance to the code through the Plan Commission.
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. Deliveries and Refuse Pickup. All refuse to be provided by a commercial hauler. All refuse, recyclables and other waste material shall be screened from view within a four-sided enclosure or as approved by the Department of Development to match the building. All tenants of the property will be required to abide by the City of West Allis health/public nuisance rules per Chapter 7 of the Revised Municipal Code. Because there is a residential neighborhood adjacent to the site, delivery operations and refuse pick up shall only be permitted during daytime hours. These functions shall not be permitted between the hours of 9:00 p.m. and 7:00 a.m.
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. Pest Control. Exterior pest control shall be contracted on a monthly basis.
12. 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.
13. Outdoor Lighting. All exterior lighting fixtures and/or lighting visible from public right-of-way shall be indirect and shielded in such a manner that no light splays from the property boundaries. Lighting is subject to a photometric lighting plan being approved by the Plan Commission.
14. 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.
15. Pollution. The 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.
16. Noise. All exterior doors and windows of the establishment will be closed to prevent nuisance noise from entering the surrounding neighborhood. The outdoor dining area will be closed in accordance with the hours of operation approved by the Common Council.
17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

Ian Martin, d/b/a Mandel Group

Property owner, City of West Allis

Mailed to applicant on the
_____ day of _____, 2016

City Clerk

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

ZON-R-1045-6-7-16