



City of West Allis

Legislation Text

File #: R-2006-0040, **Version:** 2

Resolution relative to determination of Special Use Permit for proposed Antigua Latin Restaurant, to be located within a portion of the mixed-use building located at 5807 - 5823 W. Burnham St. (Tax Key No. 455-0095-000)

WHEREAS, Citlali Mendieta-Bump, d/b/a Antigua Latin Restaurant, LLC., duly filed with the City Administrative Officer-Clerk/Treasurer an application for a Special Use Permit, pursuant to Sec. 12.16 and Sec. 12.41(2) of the Revised Municipal Code of the City of West Allis, to establish a restaurant within a portion of the existing mixed-use building located at 5807-5823 W. Burnham St. (Tax Key No. 455-0095-000); and,

WHEREAS, after due notice, a public hearing was held by the Common Council on February 7, 2006, at 7:00 p.m., and 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. Citlali Mendieta-Bump, d/b/a Antigua Latin Restaurant, LLC., resides at 10143 W. National Ave., West Allis, WI 53227.
2. The applicant has a valid offer to lease the tenant space at 5823 W. Burnham St., 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 Section 2, Township 6 North, Range 21 East, City of West Allis, Milwaukee County, Wisconsin, described as follows:

Lots 1 and 2, Block 5 in the McGeoch Farm Subdivision No. 1, except northeast corner of said Lot 1, described as follows: Beginning at the northeast corner of Lot 1; thence Southwesterly, 18.00 feet, along west right-of-way line of West Beloit Road; thence Northeasterly, 13.05 feet, to the south right-of-way line of West Burnham Street; thence Easterly, 18.00 feet, along said south line, to the Point of Beginning.

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Said land being located at 5807-23 W. Burnham St.

3. The aforesaid premise is zoned C-2 Neighborhood Commercial District under the Zoning Ordinance of the City of West Allis, which permits restaurants as a special use, pursuant to Sec. 12.16 and Sec. 12.41(2) of the Revised Municipal Code.

4. The applicant is proposing to lease space within the 5823 W. Burnham St. commercial tenant space. The first floor commercial lease space, to be occupied by Antigua Restaurant, is approximately 1,800 square feet. An outdoor dining area is proposed on the property as specified on the approved site plan.

5. The subject property is part of a block on the south side of W. Burnham St. between S. 58 St. and S. 59 St., which is zoned for commercial purposes. Properties to the north, south, east and west are developed as commercial, residential and mixed use.

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 Citlali Mendieta-Bump, d/b/a Antigua Latin Restaurant, LLC., to lease 1800 square feet of commercial tenant space at 5823 W. Burnham St. 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.

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, screening and architectural plans approved on June 23, 2004, by the West Allis Plan Commission. No alterations or modification to the approved plan shall be permitted without approval by the West Allis Plan Commission. A signage plan and review of exterior exhaust/air exchange utility plan is required before the Department of Development.
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. Parking for twenty-four (24) vehicles is required which is comprised of 12 restaurant parking stalls, 6 residential parking stalls and 6 future commercial parking stalls . A total of fifteen (15) parking stalls are being provided on-site, including one (1) ADA stall. Parking for residences shall be located on site and delineated on plan.
4. Hours of Operation. The applicant voluntarily agrees that the business hours of operation shall be Monday through Wednesday from 11:00 a.m. to 11:00 p.m.; Thursday through Saturday from 11:00 a.m. to 2:00 a.m. and Sunday from 11:00 a.m. to 9:00 p.m. Applicant's challenge of this provision shall expressly void the special use as the special use would not be granted absent these restrictions.
5. Noxious Odors, Etc. The restaurant shall not emit foul, offensive, noisome or disagreeable odors, gases or effluvia into the air. Mechanical systems shall be maintained to efficiently remove noxious odors.
6. Licenses and Permits: Future tenants/occupants of the mixed-use building will be subject to that applicant obtaining all required local and State of Wisconsin licenses and permits. Liquor may be served on the premises subject to approval by the Common Council of an appropriate alcohol beverage license.
7. Refuse Collection. To be provided by a commercial hauler. All refuse, recyclables and other waste material shall be screened from view within a four-sided enclosure to match the building.
8. Window Signage. Window signage shall not exceed twenty (20) percent of the glazed portion of each

window frame.

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. 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.

12. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light splays from the property boundaries.

13. Outdoor Dining/Storage and Display. Outdoor dining is permitted on site as regulated by City ordinance. No outdoor storage, sales, or display of merchandise shall be permitted on site.

14. 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.

15. Miscellaneous.

A. Applicant is 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 applicant's 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 _____ 2006

Assistance City Clerk

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

ZON-R-543Amd.-2-7-06jmg