



City of West Allis

Legislation Text

File #: R-2009-0129, **Version:** 1

Resolution relative to determination of Special Use Permit for proposed interior addition to Margarita Paradise, located at 11112 W. National Ave., within the National Plaza Shopping Center. (Tax Key No. 520-9999-003)

WHEREAS, Amil Alarcon d/b/a Margarita Paradise, LLC, duly filed with the City Administrative Officer-Clerk/Treasurer an application for a special use permit, pursuant to Sec. 12.41(2) and Sec. 12.16 of the Revised Municipal Code, to establish a restaurant addition for the existing restaurant located at 1112 W. National Ave.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on May 5, 2009, 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, Amil Alarcon d/b/a Margarita Paradise, LLC, has an office on site at 11112 W. National Ave.
2. The applicant leases tenant space at 11112 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:

Commencing at the Northeast corner of the said Southeast $\frac{1}{4}$, thence Southerly, 594.18 feet, along East $\frac{1}{4}$ line of said Southeast $\frac{1}{4}$, thence Southwest, 1019.94 feet, along centerline of West National Avenue, thence Northwest, 60.00 feet, at right angle to the North right-of-way line of West National Avenue and Point of Beginning, thence Southwest, 563.54 feet, along said North right-of-way line, thence Northwest, 71.42 feet, along East right-of-way line of South 112th Street, thence Northerly, 279.08 feet, along said East right-of-way line, thence Northeast, 51.98 feet, thence Easterly, 48.03 feet, to the Southerly right-of-way line of Mequanigo Drive, thence Northeast, 285.02 feet, along said Southerly right-of-way line, thence Southeast, 260.00 feet, to the Point of Beginning.

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Said land being located at 11112 W. National Ave.

3. The applicant is proposing to remodel the neighboring tenant space as well as reconfigure some existing dining, restroom and kitchen layouts. The applicant also proposes to install a new cooler/freezer unit with a new block wall enclosure. Margarita Paradise currently occupies 5,028 sq. ft. of the 27,800 sq. ft. National Plaza Shopping Center. When the remodeling of the neighboring tenant space (1,200 sq. ft.) and the cooler/freezer addition (315 sq. ft.) are complete, Margarita Paradise will occupy 6,543 sq. ft. of space. The applicant also has a small outdoor dining area along the front of its tenant space.
4. The aforesaid premise is zoned C-4 Regional Commercial District under the Zoning Ordinance of the City of West Allis, which permits restaurants and outdoor dining as a special use, pursuant to Sec. 12.41(2) and Sec. 12.16 of the Revised Municipal Code.
5. The subject property is part of the 11100 block along the north side of W. National Ave., which is zoned for

commercial purposes. Properties to the north and are developed as a residential. Properties to the south are developed as commercial.

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 Amil Alarcon d/b/a Margarita Paradise, LLC to establish a restaurant addition and for outdoor dining, 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 architectural, site and floor plans approved on April 22, 2009 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.
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 Area. The existing restaurant/pub are approximately 5,028 sq. ft. in area. The outdoor dining area is approximately 400 sq. ft in area. The proposed expansions total approximately 1,515 sq. ft. in area.
4. Restaurant Operations. The restaurant will be utilized for dining and will have banquet facilities. Outdoor dining is also provided on site.
5. Hours of Operation. The hours of operation for the outdoor area shall be in accordance with Sec. 9.02 of the Revised Municipal Code (closed between 12:00 a.m. (midnight) and 10:00 a.m. The restaurant and pub/tavern will be open 7 days a week. Closing shall be in accordance with state mandated regulations.
6. Off-Street Parking. The property requires a total of 124 parking spaces. One hundred eighty seven (187) parking stalls will be provided on site.
7. Litter and Monitoring. 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. The bar/restaurant, outdoor area and parking lots shall be adequately monitored by staff.
8. Window Signage. Any building window signage shall not exceed twenty (20) percent of each window's area. Any existing signage on site shall be removed.
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 bar/lounge 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. Noise. The windows and doors of the pub/restaurant will be closed by 12:00 a.m. (midnight) to prevent excess noise from penetrating the neighborhood. The outdoor area/patio will also close at midnight (12:00 a.m.) per the City of West Allis Revised Municipal Code.

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, abutting sidewalk.

15. 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.

16. 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.

17. 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.

18. 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 _____, 2009

Assistant City Clerk

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

ZON-R-716-5-5-09