



# City of West Allis

## Legislation Text

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**File #:** R-2015-0005, **Version:** 1

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Resolution relative to determination of Special Use Permit to re-establish occupancy for a mixed-use commercial and residential building located at 6416-18 W. National Ave.

WHEREAS, Gerald Macklin, d/b/a First Service, duly filed with the City Clerk an application for a Special Use Permit, pursuant to Sec. 12.42(2), Sec. 12.49 and Sec. 12.16 of the Revised Municipal Code, to renovate and occupy a mixed-use building with commercial street frontage and a 2-bedroom residential unit behind the commercial space at the property located at 6416-18 W. National Ave.; and,

WHEREAS, the mixed-use property at 6416-18 W. National Avenue has been vacant for more than a year; and therefore, requires Plan Commission review to re-establish occupancy and Common Council approval to re-establish the Special Use Permit for mixed-use; and,

WHEREAS, on September 15, 2010, Heidi Wachowiak filed an application for a Special Use Permit with the City of West Allis; and,

WHEREAS, the Special Use Permit application was denied on April 5, 2011 due to non-compliance with orders from the Department of Building Inspections and Neighborhood Services, insufficient follow-up to Plan Commission conditions of approval, a default judgment by the Circuit Court on March 28, 2011, and a lack of response to a raze/repair order and communications from the City Attorney's Office, Department of Development and Department of Building Inspections and Neighborhood Services; and,

WHEREAS, on December 20, 2011, the Common Council agreed to reconsider its denial based on changed conditions from the previous judgment; and,

WHEREAS, on February 7, 2012 the Common Council approved the Special Use Permit application to renovate and occupy a mixed-use building with commercial street frontage and a 2-bedroom residential unit behind the commercial space at the property located at 6416-18 W. National Ave.; and,

WHEREAS, Building Inspector Robert Woodard issued a raze order on July 5, 2013 due to the building being so old, dilapidated, or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation, occupancy, or use; and,

WHEREAS, the City of West Allis filed a summons and complaint to enforce the raze order on January 8, 2014; and,

WHEREAS, a Settlement Agreement was agreed to between the City of West Allis and Prospect Holdings 3061, LLC on October 24, 2014 and that Settlement Agreement will act as **EXHIBIT A**, to this Special Use Permit. All parts of the Settlement Agreement shall take priority over this Special Use Permit and any parts of this Special Use Permit which contravene the provisions of the Settlement Agreement shall be null and void in the Special Use Permit and shall continue to be in place as part of the Settlement Agreement; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on January 6, 2015, 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, Gerald Macklin, d/b/a First Service, applied, acting as Prospect Holdings 3061 LLC's agent, with a mailing address of PO Box 3441992, Milwaukee, WI 53234.
2. The applicant is acting as the agent for the owners of the property, Prospect Holdings 3061 LLC, and the property is located at 6416-6418 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:

Lot 3 in Block 1 of the C.A. Maynard and Agnew's Subdivision No.3.

Tax Key No. 454-0204-000

Said land is located at 6416-18 W. National Ave.

3. The applicant is proposing to renovate the existing structure and establish occupancy for a mixed use. Commercial space will occupy the street frontage (approximately 650 sq. ft. in area) and remainder of the building will be utilized as a 2-bedroom apartment.
4. The aforesaid premises is zoned C-3 Community Commercial District under the Zoning Ordinance of the City of West Allis, which permits mixed residential and commercial uses as a special use, pursuant to Sec. 12.42(2), Sec. 12.49 and Sec. 12.16 of the Revised Municipal Code.
5. The subject property is located on the north side of W. National Ave. in between S. 65 and S. 62 Streets. Properties to the north, south, east and west are developed as mixed residential and commercial.
6. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area as the site has historically been used as a mixed-use facility with commercial street frontage.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Gerald Macklin, d/b/a First Service, to renovate and occupy a mixed-use building with commercial street frontage, and a 2-bedroom residential unit behind the commercial space, 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), Sec. 12.49 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 approved on December 3, 2014 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. The detached metal Quonset structure in the rear yard is to be demolished and returned to grass yard on the basis that the structure is dilapidated and that there is no access to the structure.
2. Timeframe. The grant of this Special Use Permit is subject to all of the agreed upon items within EXHIBIT A, the

Settlement Agreement.

3. Off-Street Parking. In accordance with Sec. 12.19 of the Revised Municipal Code, four (4) parking spaces are required on site (2 for commercial and 2 for residential). No off-street parking spaces are currently provided on site, nor have they ever been historically. The Common Council shall have the authority to change the minimum parking requirements in accordance with Sec. 12.16(9)(a) of the Revised Municipal Code.
4. Commercial Business Operations. Daily 6:30 a.m. to 10:00 p.m. seven days per week.
5. Litter. Employees shall inspect the site and immediate vicinity and pick up litter on a daily basis.
6. Refuse Collection. Refuse collection to be provided by commercial hauler and stored within the building or within a four-sided enclosure large enough for all outdoor storage of refuse and recyclable containers.
7. 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.
8. Pagers, Intercoms. The use of outdoor pagers, intercoms, or loud speakers shall not be permitted on site.
9. Monitoring. The area shall be adequately monitored by staff.
10. Window Signage. Any building window signage shall not exceed twenty (20) percent of each window's area and be affixed to the interior of the window space.
11. 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.
12. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light splays from the property boundaries.
13. Outdoor Storage and Display. No outdoor storage, sales or display shall be permitted on site unless approved by the Plan Commission in accordance with Chapter 12 of the Revised Municipal Code.
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. 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.
16. Lapse. If the applicant does not meet all of the terms and conditions set forth in Exhibit A, the Settlement Agreement, 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.
17. 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.

18. Acknowledgement. That the applicant sign 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.

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Property Owner

Mailed to applicant on the

\_\_\_\_\_ day of \_\_\_\_\_, 2015

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City Clerk

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

ZON-R-980-1-6-15