



# City of West Allis

## Legislation Text

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**File #:** R-2013-0254, **Version:** 2

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Resolution relative to determination of Special Use Permit for Michels Corporation for a batch plant and associated trucking operations on a portion the Quad Graphics site located at 555 S. 108 St. and 11000 W. Theodore Trecker Way.

WHEREAS, Quad Graphics (shall be referenced as “owner”) owns the property at 555 S. 108 St. and 11000 W. Theodore Trecker Way; and,

WHEREAS, Ryan Murphy d/b/a Michels Corporation, proposed lessee duly filed with the City Administrative Officer- Clerk/Treasurer an application for a Special Use Permit, pursuant to Sec. 12.45(2) and Sec. 12.16 of the Revised Municipal Code, for a temporary batch plant along with associated trucking operations on a portion the Quad Graphics site located at 555 S. 108 St. and 11000 W. Theodore Trecker Way; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on November 5, 2013 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, Ryan Murphy d/b/a Michels Corporation., the lessee, has offices at 817 W. Main St. Brownsville, WI 53006. The owner of the property is Quad Graphics, Inc. (contact person is Tom Drover), 555 S. 108 St., West Allis, WI 53214.

2. All the land of the owner being located in the Northeast  $\frac{1}{4}$  of Section 31, Township 7 North, Range 21 East, City of West Allis, Milwaukee County, State of Wisconsin, described as follows:

Parcel 1 and Outlot A of the Certified Survey Map No. 5857.

Tax Key Number: 414-9991-009

3. The aforesaid lands are zoned M-1 Manufacturing District under the Zoning Ordinance of the City of West Allis, which permits cement products, including concrete central mixing and proportioning plants and storage of petroleum and petroleum products as a special use, pursuant to Sec. 12.45(2).

4. The subject property is located on the northwest corner of S. 108 St. and W. Theodore Trecker Way which is zoned for manufacturing use. Properties to the north, west and east are developed as manufacturing and commercial uses. Properties to the south are developed as residential uses.

5. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area. The flow of traffic will be northwest to east, beginning at via W. Fairview Ave. and S. 116 St. to the west, then onto the Hank Aaron State Trail, then south to the site where the trucks will load up or drop off and then circle north back to the Hank Aaron State Trail, east to a new off ramp created as part of the Zoo Interchange project

and then onto S. 108 St. The use of Theodore Trecker Way and the use of the S. 108 St. Frontage Rd., are strictly prohibited.

6. The applicant has submitted that the purpose of the request for a Special Use Permit at the Quad Graphics site located on the corner of W. Theodore Trecker Way and South 108th Street is to erect a temporary concrete batch plant on site. Michels Corporation (Michels) intends to utilize about 3.5 acres inside Quad's 40-acre complex. The temporary concrete batch plant site will be utilized only for the I-94 North-South Freeway Zoo Corridor projects and adjacent Wisconsin Department of Transportation (Wisconsin DOT) programs.

7. The applicant has submitted a list of things that it will not do at the site:

A. There will be no crushing and dumping of demolition material or waste material at this location.

B. There will be no deliveries of aggregates and sand during the hours of 6:00 p.m. - 7:00 a.m.

C. There will be no slamming of dump truck tailgates during evening or night hours at the plant site because there will be no night deliveries.

D. There will be no dump truck back-up alarms sounding during the hours of 6:00 p.m. - 7:00 a.m. because the truck route allows for continuous forward movement.

E. There will be no additional access requirements from any parcel. Michels does not intend to change any current traffic patterns or legally permitted and authorized truck routes in the area.

F. There will be no obstruction of sight lines because the proposed material piles will be no greater than 20' tall are behind a 50-foot tall building and will be below the tops of the tree lines.

G. There will be no production or sale of concrete for non-Michels participating projects. Therefore, the operation of the temporary plant will be limited to only Michels operations.

H. There will be no trucks on West Theodore Trecker Way. Michels will utilize the Hank Aaron State Trail to enter and exit the property on West Fairview Avenue and HWY 100.

I. Michels does not intend or plan to run the plant during the cold weather season. Unless otherwise approved or required by WisDOT, Michels will not operate the plant from mid-December through mid-March.

8. The applicant has submitted a list of things that it will do at the site:

A. Michels vehicles and hired trucks will be required to follow all traffic laws and safety rules, including speed limits. Michels will strictly enforce these traffic laws and safety rules and repeat offenders will be removed from the project.

B. Michels will frequently use a self-contained sweeping vacuum truck at our street access locations and within the site.

C. Michels will utilize dust control measures such as water to suppress dust from its operations.

9. The applicant has submitted that its daily activities during and around paving operations will include

hauling of concrete aggregates and sand by dump trucks and semi-trailer trucks. These deliveries will not occur between the hours of 6:00 p.m. - 7:00 a.m. The intent is to stock pile the materials on the north and west portions of the area intended to be used by Michels. Tankers will haul in cement to be pumped into storage tankers located directly in front of the concrete plant. This will usually happen one to two days prior to the beginning of the paving operation and continue while concrete is being produced. Dump trucks and agitator mixer trucks will be used to haul the mixed concrete to the paving site. The amount of truck activity is determined by the size of the paving run to be constructed, and approximately 30 trips per hour could be expected during mainline construction. These trucks will not operate or travel on West Theodore Trecker Way.

10. The applicant has submitted that it will not use Theodore Trecker Way or the S. 108 St. Frontage Rd. as an ingress or egress route for any of its operations. The route to be used will be to enter eastbound from 116 St. and W. Fairview Ave., onto the Hank Aaron State Trail and then south into the site where trucks will loop around in a counterclockwise direction and then exit the site at the same point they entered, then travel eastbound onto the Hank Aaron State Trail, east to a new off ramp created as part of the Zoo Interchange project and then onto S. 108 St.

11. A detailed site and landscaping plan to be approved by the Department of Development for what the proposed Michels site will be when Michels leaves. This plan should be shown as part of the overall site and landscape plan for Quad Graphics, (essentially a plan that shows how this site will be absorbed into the Quad Graphics site once Michels leaves). This plan shall be compliant with all City Municipal Code Requirements including the City's Site and Landscape Requirements.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that Ryan Murphy d/b/a Michels Corporation, application for a Special Use Permit, pursuant to Sec. 12.45(2) and Sec. 12.16 of the Revised Municipal Code, for a batch plant along with associated trucking operations on a portion the Quad Graphics site located at 555 S. 108 St. and 11000 W. Theodore Trecker Way, 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 Secs. 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, Signage and Architectural Plans. With the exception of condition 1b of the Plan Commission Staff Report, which was the recommendation from the Plan Commission that the applicant pave all areas used for storage, drives or parking within the Michels lease area, a condition which the Safety and Development Committee waived because of the temporary nature of the use and restated to allow for recycled asphalt millings in place of pavement within the Michels lease area, at their meeting dated December 11, 2013, the grant of this Special Use Permit is subject to and conditioned upon the site, landscape, screening, and architectural plans approved by the City of West Allis Plan Commission on October 23, 2013 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 by the Fire Department.

3. Licenses and Permits. Subject to applicant obtaining all required Local and State of

Wisconsin licenses and permits.

4. Off-Street Parking. The outside storage piles proposed for the site require a total of 5 parking spaces, 5 parking spaces are provided on-site.

5. On-street parking. No on street parking for employee vehicles or trucks associated with this use shall take place on adjacent roadways or in adjacent residential neighborhoods.

6. Fences. Additional fencing can be required at the discretion of the Department of Development.

7. Paving and Dust Control. The grant of this special use is conditioned upon the applicant providing a plan to the Department of Development, and the applicant shall thereafter adhere to the plan to address the following:

A. All internal roads, parking and storage areas shall be maintained in a reasonably dust free condition, per subsection 18.03 (1)(b) of the revised municipal code. Such areas shall be paved with concrete or asphalt;

B. Provisions shall also be made to remove dust, dirt, mud or other debris from the vehicles before they enter the public right-of-way;

C. Provisions shall be made for the on-site reduction and containment of dust and other particulate matter;

D. During the periods that there are operations on the site, all roads and other paved surfaces to be washed at minimum daily and more frequently where conditions warrant as determined by the City Engineer.

E. Pressurized spray washer are to be added to the screens and transfer points during operation to decrease the release of dust.

F. All areas that produce dust should be sprayed with water regularly. Storage piles should be consolidated to minimize vehicle travel. During the handling of material, water shall be applied to the storage piles.

8. Lessee Area Surface Requirement. The Common Council made an exception for the surface material to be used within the proposed lessee area because of the temporary nature of the use, the applicant's proposed drives, storage areas and parking areas shall have a surface of recycled asphalt material which shall be of sufficient strength to maintain the surface and support the normal load placed thereon.

9. Property Site Improvements and restoration of lessee site. The site improvements required for the areas which the lessee will utilize along with the improvement required to help mitigate noise and dust from the lessee must be completed prior to the lessee occupying the site.

All parking, loading areas, and drives which are currently gravel areas on the property must be paved or landscaped and brought into conformance with the Municipal Code within 2 years from the date of approval. A detailed site and landscape plan for these areas must be submitted for approval and approved by staff or the Plan Commission prior to the occupancy of the site by the lessee.

10. Bond or Letter of Credit Requirements. A letter of credit or surety bond from the owner for an amount

of 125% of the estimated cost to do the work which is not completed at the time of the submittal of the bond or letter of credit, is required prior to occupancy of the site by the lessee.

11. Maintenance.

- A. The City Engineer has the authority to order maintenance and repair work on haul roads which are city-owned or are city right of way, including dust abatement, at any time during hauling operations, as necessary to ensure reasonable service to other users of the road.
- B. To prevent or minimize damage to haul roads the contractor may stabilize, reinforce, or strengthen existing facilities before hauling starts; and may condition the surface and perform repairs during hauling operations.

12. No Crushing. There shall be no crushing of materials on-site.

13. Restoration of Roads.

- A. Upon termination of hauling operations and before final acceptance, restore all haul roads, including drainage facilities and other components, to the equivalent of pre-hauling conditions.
- B. The final repair of a haul road is subject to the City Engineer's approval.

14. Hours of Operation. The hours of operation of any Concrete or Asphalt Plant, including all ancillary activities including, but not limited to the operation of equipment or truck engines or any plant equipment producing noise, but excepting on-site security operations, shall occur only as follows:

- A. 7:00 a.m. - 10:00 p.m., Monday through Saturday; and,
- B. Restrict deliveries from 7:00 a.m. - 6:00 p.m., Monday thru Saturday; and,
- C. The business will be closed on Sundays.

15. Truck Routes. The applicant will not use Theodore Trecker Way or the S. 108 St. Frontage Rd. as an ingress or egress route for any of its operations. The route to be used will be to enter eastbound from 116 St. and W. Fairview Ave., onto the Hank Aaron State Trail and then south into the site where trucks will loop around in a counterclockwise direction and then exit the site at the same point they entered, then travel eastbound onto the Hank Aaron State Trail, east to a new off ramp created as part of the Zoo Interchange project and then onto S. 108 St.

16. Emergency Services Payments. The applicant has agreed to pay for any costs incurred for the use of the West Allis Fire Department, West Allis Police Department or any other West Allis Emergency Services called to the site.

17. Training for Fire and Police. The applicant has agreed to provide concealed space training for the West Allis Fire and Police Departments.

18. On-site fueling and storage. No bulk on site fueling or on-site bulk fuel storage shall take place on the

site.

19. Material Storage. All outdoor storage and display will be in accordance with the approved site plan. Materials stored on site shall not exceed 20' in height. Proposed new screen walls, landscaping or fencing and/or modifications to existing shall first require Plan Commission approval.
20. Communication. The applicant shall provide the neighborhood with a phone number which can be called for any questions or concerns regarding the operation.
21. Signage. Signage is subject to the Master Signage Program requirements per 13.21 of the Revised Municipal Code. Any building window signage shall not exceed twenty (20) percent of each window's area. Such signage shall be reviewed/approved by the Plan Commission in accordance with the signage ordinance.
22. 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.
23. Lighting. The grant of this special use is subject to all lightning fixtures being orientated and/or shielded in such a manner that no light splays from the property boundaries.
24. Litter, Monitoring, Deliveries and Refuse Collection. Employees shall inspect the area and immediate vicinity and pick up litter on a daily basis. All refuse to be provided by a commercial hauler. Employees shall inspect the site and immediate vicinity and pick up litter on a daily basis. Refuse, recyclables, and other waste materials for the property will be fully enclosed within an approved 4-sided enclosure and shown on the approved site plan.
25. Dust Control. A water truck and mechanical broom will be on site to control dust and maintain clean and safe roadways to not endanger the traveling public during operations and to reduce mud, dirt and dust. The site will also serve as a staging area for clean fill materials as well as an evening parking site for the concrete trucks.  
  
A concise and thorough watering plan is to be put in place for the site, so as to protect the health and welfare of the City of West Allis by limiting the amount of small particulate matter that can get airborne and impact human health and the environment.
  - A. All roads to be washed regularly
  - B. Pressurized spray washer or charged foggers are to be added to the screens and transfer points during operation to decrease the release of dust.
  - C. All areas that produce dust are to be sprayed with water regularly. Storage piles shall be consolidated to minimized vehicle travel. During the handling of material, water shall be applied to the storage piles.
26. Noise. The use of this site shall not violate any existing or future Municipal Code Requirements. If there are any noise violations the Common Council shall have the authority to terminate the Special Use Permit.
27. Truck Backup Alarms. All of the backup alarms used on the trucks on-site shall be muffled (as permitted by OSHA).

28. Noxious Odors, Etc. The use shall not emit foul, offensive, noisome, noxious or disagreeable odors, gases, dust or effluvia into the air. Mechanical systems shall be maintained to efficiently remove noxious odors.

29. Temporary Special Use Provision This Special Use Permit shall become null and void on December 31, 2018 or at the time that the Hank Aaron State Trail can no longer be used by contractors working on the Zoo Interchange Construction Project, whichever is sooner.

30. 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.

E. The extension request set forth in this section shall not apply to the duration of the terms of this Special Use Permit as set forth in Section 21.

31. 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.

32. 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.

33. Termination of Special Use. If the person or entity granted the special use violates, allows or suffers the violation of the terms or conditions of this Special Use Permit or 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.

34. Acknowledgement. That the applicants sign an acknowledgment that they have 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. 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.

35. Authorization. The undersigned declares that the person(s) signing this proposal is/are fully authorized to sign on behalf of the applicant and owner respectively, and to fully bind the applicant and owner respectively, to all the conditions and provisions thereof.

Property Owner, Quad Graphics:

  

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Applicant, Michels Corporation:

  

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Mailed to applicant on the

\_\_\_\_\_ day of \_\_\_\_\_, 2013

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Assistant City Clerk

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

ZON-R-938-12-11-13-As Amended -gmj