



City of West Allis

Legislation Text

File #: R-2011-0132, **Version:** 3

Resolution relative to Special Use Permit for proposed café within the former Paradise Theater located at 6217 W. Greenfield Avenue.

WHEREAS, epikos church, by its pastor Danny Parmelee, duly filed with the City Administrative Officer-Clerk/Treasurer an application for a special use permit, pursuant to Sec. 12.42(2) and Sec. 12.16 of the Revised Municipal Code, to establish a restaurant/cafe, within a 3,300 square foot portion of the former Paradise Theater building located at 6217-6301 W. Greenfield Ave. and 6220 W. National Ave; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on May 17, 2011, 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. The applicant, epikos church, by its pastor Danny Parmelee, has another church and offices at 2308 E. Belleview Pl. Milwaukee, WI 53211.

2. The applicant has a valid offer to purchase the property at 6217-6301 W. Greenfield Ave. and 6220 W. National Ave (Tax Key No. 454-0001-000), 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 (the "Premise"), described as follows:

Lot 1 in Block 1 of the Assessors Plat No. 271.

Tax Key No. 454-0001-000

Said land being located at 6217-6301 W. Greenfield Ave. and 6220 W. National Ave.

3. The applicant proposed to develop an approximate 3,300 square foot restaurant/café within the part of the building that forms a point at the intersection of W. Greenfield Ave and W. National Ave. The Church currently plans to develop the space into a fully functioning, professional restaurant/coffeehouse open to the public; however, the Church may elect in the future to only serve its patrons within the restaurant/café.

4. The aforesaid area is zoned C-3 Community Commercial District under the Zoning Ordinance of the City of West Allis, which permits restaurants and café's as a special use, pursuant to Sec. 12.42(2) of the Revised Municipal Code of the City of West Allis.

5. The Property is within the Six Points area of the City, one of the City's older commercial areas. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area as the Six

Points Neighborhood offers off-street municipal shared parking and various on-street parking opportunities within 800-ft of the property. The property is also served by public transit.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of epikos church, to establish a restaurant/cafe within a 3,300 square foot space within the former Paradise Theater building located at 6217-6301 W. Greenfield Ave. and 6220 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.

BE IT FURTHER RESOLVED that said special use permit is granted subject to the following conditions:

1. The Common Council approves and the applicant must accept the Paradise Theater Deal Points Agreement, Exhibit A (attached).
2. 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 April 27, 2011, 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 plans shall be permitted without approval by the Plan Commission.
3. Building Orders, Plans and Fire Codes. The grant of this special use is subject to all building code requirements including any required building plans being submitted to and approved by the Department of Building Inspections and Zoning and by the Fire Department.
4. Restaurant Operations. The restaurant/café may be utilized for dine-in, carryout, delivery and catering. While outdoor dining has not been proposed at this time, the applicant may seek permission by submitting a special use application and a revised site and landscaping plan for consideration and approval before the City of West Allis Plan Commission and Common Council.
 - A. All exterior doors shall be kept closed to prevent sound/noise emissions into the adjacent neighborhood.
 - B. Excessive odors from cooking on premise shall be controlled within limits of current technology.
 - C. Excessive noise and vibrations shall not emanate from the building.
 - D. Employees shall inspect the site and immediate vicinity and pick up litter on a daily basis.
 - E. Exterior pest control shall be contracted on a monthly basis.
 - F. Outdoor dining - upon request. Outdoor dining will require special use approval before the Common Council and approval of a site and landscaping plan by the Plan Commission.
 - G. No Bingo or gaming is permitted as part of this special use.
5. Hours of Operation. The permitted hours of operation will be from 6:00 a.m. to 10:00 p.m. seven days per

week.

6. Off-Street Parking. A total of 182 parking spaces are required for the overall property, of which 22 spaces are required for the restaurant/café use. There are no parking spaces provided on site. Parking requirements have been calculated using a parking ratio of 1 parking stall required for every 150 gross sq. ft. of restaurant/café space in accordance with Sec. 12.19 of the Revised Municipal Code.

The applicant has identified parking in the amount of 193 spaces (Breakdown - public off street 67, Fargo Main Lot 100, Fargo Minor Lot 26 = 193) within 800 feet of the subject property.

7. Litter. Members/Employees shall inspect the area and immediate vicinity and pick up litter on a daily basis.

8. Window Signage. Any building window signage shall not exceed twenty (20) percent of each window's area and shall be installed upon the interior side of the glass. Window signs shall not flash.

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. 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. 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.

11. Pagers, Intercoms. The use of outdoor pagers, intercoms, or loud speakers shall not be permitted on site.

12. Sidewalk Repair. The grant of this special use is subject to compliance with Policy No. 2814 of the Revised Municipal Code relative to the City's sidewalk improvement policy as it relates to damaged, abutting sidewalk.

13. Outdoor Lighting. The grant of this special use is subject to all lighting fixtures being orientated and/or shielded in such a manner that no light spills from the property boundaries.

14. Noxious Odors, Etc. The use 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. 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.

17. 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.

18. 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.

19. 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.

20. Substantive Changes. The City Attorney be and is hereby authorized to make such substantive changes, modifications, additions and deletions to and from the various provisions of this resolution, including any and all attachments, exhibits, addendums and amendments, as may be necessary and proper to correct inconsistencies, eliminate ambiguity and otherwise clarify and supplement said provisions to preserve and maintain the general intent thereof, and to prepare and deliver such other and further documents as may be reasonably necessary to complete the transactions contemplated therein.

21. Acknowledgement. That the applicants sign an acknowledgment that it 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.

epikos church

Danny Parmelee, pastor

Mailed to applicant on the
_____ day of _____, 2011

Assistant City Clerk

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

ZON-R-816-6-7-11-amd