



# City of West Allis

## Legislation Details (With Text)

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**Type:** Resolution **Status:** Adopted

**File created:** 6/6/2017 **In control:** Safety and Development Committee (INACTIVE)

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**Title:** Resolution relative to determination of Special Use Permit for "Element 84," a proposed multi-family and mixed-use development, to be located at 8426 W. Orchard St. and 1470-82 S. 84 St. (proposed addresses) for properties currently located at 1470-88 S. 84 St., 1515 S. 83 St., 82\*\* W. Orchard St., 15\*\* S. 83 St., 1525-27 S. 83 St., 1529-31 S. 83 St., 1533-35 S. 83 St., 1502 S. 83 St. and 15\*\* S. 83 St.

**Sponsors:** Safety and Development Committee (INACTIVE)

**Indexes:**

**Code sections:**

**Attachments:** 1. AFFIDAVIT OF PUBLICATIONS - Element 84, 2. R-2017-0162 all signatures

Date	Ver.	Action By	Action	Result
6/13/2017	1	Mayor	Signed/Enacted	
6/6/2017	1	Common Council	Adopted	Pass
6/6/2017	1	Safety and Development Committee (INACTIVE)		
6/6/2017	1	Common Council		
6/6/2017	1	Safety and Development Committee (INACTIVE)		
6/6/2017	1	Common Council		

Resolution relative to determination of Special Use Permit for "Element 84," a proposed multi-family and mixed-use development, to be located at 8426 W. Orchard St. and 1470-82 S. 84 St. (proposed addresses) for properties currently located at 1470-88 S. 84 St., 1515 S. 83 St., 82\*\* W. Orchard St., 15\*\* S. 83 St., 1525-27 S. 83 St., 1529-31 S. 83 St., 1533-35 S. 83 St., 1502 S. 83 St. and 15\*\* S. 83 St.

WHEREAS, Jonathan Ross, on behalf of Ogden and Company, Inc. duly filed with the City Clerk an application for a Special Use Permit, pursuant to Sec. 12.16, Sec. 12.42(2), 12.49 of the Revised Municipal Code of the City of West Allis, for the development of a multi-family residential development at 8426 W. Orchard St. and 1470-82 S. 84 St. (proposed addresses) for properties currently located at 1470-88 S. 84 St., 1515 S. 83 St., 82\*\* W. Orchard St., 15\*\* S. 83 St., 1525-27 S. 83 St., 1529-31 S. 83 St., 1533-35 S. 83 St., 1502 S. 83 St and 15\*\* S. 83 St.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on June 6, 2017 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. Ogden and Company, Inc., has offices at 1665 N. Water St., Milwaukee, WI 53202.

2. The applicant had previously applied for the Element 84 redevelopment project in 2016 and obtained the following Plan Commission and Common Council approvals:
  - a. Rezoning RB-2, residence District to C-3, Commercial District (O-2016-0028)
  - b. Special use approval (R-2016-0152 and R-2016-0153)
  - c. Certified Survey Map (R-2016-0147 and R-2016-0282)

Since this time finding the right financing fit for a project of this size has taken more time to implement Ogden's conditionally approved plans from last year. On April 18, 2017 the Common Council unanimously approved a Resolution for an Amended Purchase & Sale and Development Agreement allowing for an extension of time. Along a parallel path, Ogden needs more time to satisfy the terms of the conditional Site, Landscaping and Architectural approvals from 2016. They have submitted their request as well as a new special use permit and CSM to this end.

Ogden Development has also decided to propose a new Certified Survey Map (consolidating existing lots within the project area and dividing the "gun barrel" into a separate lot). As a result of developing two buildings onto one lot an overlay rezoning (PDD-1), , and a new special use for the project will replace two special uses granted by the Common Council last year.

3. The applicant owns 4 properties located at 1470-88 S. 84 St, 1525-27 S. 83 St., 1529-31 S. 83 St. and 1533-35 S. 83 St. and has a valid offer to purchase other properties within the project area from the Community Development Authority of the City of West Allis (1515 S. 83 St., 82\*\* W. Orchard St., 15\*\* S. 83 St. 1502 S. 83 St and 15\*\* S. 83 St.). The project area of this special use is legally described below located in the City of West Allis, Milwaukee County, Wisconsin, more particularly described as follows, to-wit:

All the land of the owner being located in the Northeast  $\frac{1}{4}$  of Section 6, Township 6 North, Range 21 East, City of West Allis, Milwaukee County, Wisconsin, described as follows:

Beginning at the Northeast corner of Lot 2, Certified Survey Map No. 8563; thence South 01°03'19" East, 262.30 feet, to the North right-of-way line of West Orchard Street; thence South 88°06'07" West, 123.17 feet, along the said right-of-way line to the beginning of the curve to the left; thence 177.64' along the arc of said curve whose radius is 115.00 feet and chord bearing is South 43°50'56" West, to the West right-of-way line of South 83<sup>rd</sup> Street; thence South 00°24'15" East, 257.96 feet, along the said West line; thence South 88°06'07" West, 200.99 feet; thence North 01°00'19" West, 41.82 feet; thence South 88°06'07" West, 101.25 feet, to the East right-of-way line of South 84<sup>th</sup> Street; thence North 01°17'32" West, 318.00 feet, along the said East line; thence North 88°06'07" East, 102.84 feet; thence North 01°00'19" West, 224.74 feet; thence North 88°07'09" East, 50.00 feet; thence North 01°00'37" West, 47.51 feet; thence North 88°04'54" East, 389.86 feet, to the Point of Beginning.

Tax Key Numbers: 451-0642-006, 452-0712-000, 452-0711-000, 452-0420-000, 452-0421-000, 452-0422-000, 452-0423-000, 452-0417-001 and 452-0415-000. These Tax Key numbers will change with the expected recording of the Certified Survey Map which ties to this proposal.

Said land being approximately 5 acres and located 8426 W. Orchard St. and 1470-82 S. 84 St. (proposed addresses) for properties currently located at 1470-88 S. 84 St., 1515 S. 83 St., 82\*\* W. Orchard St., 15\*\* S. 83 St., 1525-27 S. 83 St., 1529-31 S. 83 St., 1533-35 S. 83 St., 1502 S. 83 St and 15\*\* S. 83 St. Current Tax Key Nos. 451-0642-006, 452-0712-000, 452-0711-000, 452-0420-000, 452-0421-000, 452-0422-000, 452-0423-000, 452-0417-001 and 452-0415-000

3. The aforesaid premise is zoned C-3 Community Commercial District under the Zoning Ordinance of the

City of West Allis, which permits multi-family residential uses, mixed uses, retail and outdoor dining pursuant to Sec. 12.16, Sec. 12.42(2) and 12.49 of the Revised Municipal Code. Certain lots within the project area will be rezoned by Planned Development District (PDD-1) overlay. This will allow for the development of more than one building upon a lot. The underlying C-3, Community Commercial District zoning will remain. A new Certified Survey Map is also part of the Element 84 redevelopment project.

4. The applicant is proposing to establish two (2) four story multi-family residential apartments with a total of up to 205 residential apartment units. One of the buildings will feature a retail commercial use. Each building will be constructed upon the same lot as approved via the Certified Survey Map and PDD-1.

The development project will be called Element 84 and in total will be built upon approximately 5 acres of land. Building A will be situated on a combination of land that once was occupied by a factory/Milwaukee Gray Iron. This area is currently owned by the Community Development Authority.

5. This resolution provides the special use agreement for the two buildings within the project area for a mixed use multi-family residential and commercial building, (Element 84) to be located at 8426 W. Orchard St. and 1470-82 S. 84 St. (proposed addresses) for properties currently located at 1470-88 S. 84 St., 1515 S. 83 St., 82\*\* W. Orchard St., 15\*\* S. 83 St., 1525-27 S. 83 St., 1529-31 S. 83 St., 1533-35 S. 83 St., 1502 S. 83 St and 15\*\* S. 83 St. Floor plans for this building will offer a range of floor plan types including studio apartments, one bedroom units, one bedroom with den, two bedroom units and two bedroom with den apartment units. The proposal also includes a retail/commercial use with one of the buildings.

6. The proposed redevelopment will feature various amenities including: both underground and surface off-street parking on premise and also on an existing detached surface parking lot (that will be sold to the developer) located at S. 83 St. and W. Orchard St. (Tax Key No. 452-0417-001, 1502 S. 83 St. and 452-0415-000, 1500 Block S. 83 St).

7. A central courtyard, common to both buildings (A and B), will be provided for residents and will offer common area amenities such as outdoor patios, seating areas, landscaping, grills, a fire pit, roof-top patio/green roof garden area a pool and cabana area within the development. The overall development will also feature a fitness center, club room, lobby, a pet grooming/wash area and car wash facility (within the underground parking areas). Pedestrian walkways will be incorporated into the development to link with that of surrounding businesses and to make an accessible connection with public right of way.

8. The subject property is located near the intersection of S. 83 St. and W. Orchard St. Land areas are currently zoned for commercial purposes (C-3/Community Commercial District). Properties to the north, west and east are developed as commercial. Properties to the south are developed as residential uses. The property to the north is developed as a commercial use. The redevelopment is consistent with the 2030 Future Land Use Plan for the City.

9. 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 Jonathan Ross on behalf of Ogden and Company, Inc., for Element 84, a proposed mixed use, multi-family residential and commercial building, to be located at to be located at 8426 W. Orchard St. and 1470-82 S. 84 St. (proposed addresses) for properties currently located at 1470-88 S. 84 St., 1515 S. 83 St., 82\*\* W. Orchard St., 15\*\* S. 83 St., 1525-27 S. 83 St., 1529-31 S. 83 St., 1533-35 S. 83 St., 1502 S. 83 St and 15\*\* S. 83 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. Property owner Certification. The grant of this special use is subject to and conditioned upon Element 84, LLC taking title of all properties and receiving property owner certifications in accordance with WI State Statutes.
2. Site and Landscaping surety. The grant of this special use is subject to and conditioned upon an estimated cost of landscaping and screening being submitted to the Department of Development for approval and a surety bond or other form of security as required under Sec. 12.13(14) of the Revised Municipal Code in the amount of 125% of the estimated project cost of landscaping and screening shall be executed by the applicant prior to the issuing of a building permit.
3. Rezoning. The grant of this special use is subject to and conditioned upon Common Council approval proposed overlay rezoning to PDD-1 Planned Development District, Residential. The underlying C-3/Community Commercial District will remain.
4. 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 by the West Allis Plan Commission on May 25, 2016 and May 24, 2017. No alterations or modification to the approved plan shall be permitted without approval by the West Allis Plan Commission.
5. Building Plans, Fire Codes and Licenses. The grant of this special use is subject to building plans being submitted to and approved by the Department of Building Inspections and Neighborhood Services and by the Fire Department. All applicable Federal, State and local licenses being applied for and approved. Capacity shall be in accordance with limits of occupancy load calculations as approved by Building Inspection and Fire Department.
6. Off-Street Parking. The Element 84 Redevelopment project shall provide off-street parking in accordance with Sec. 12.19 of the Revised Municipal Code:
  - a. Required Parking. Based upon the project plans approved by the Plan Commission, a total of 356 parking stalls are required (consisting of 336 off-street parking spaces for Building A and Building B and 20 spaces for a 3,100 sf retail component).
  - b. Provided Parking. The Element 84 Redevelopment project will provide off-street parking arrangements of 337 spaces (includes surface and underground spaces).
  - c. With the grant of this special use, the Common Council accepts the parking deficiency and shall have the authority to change the minimum parking requirements in accordance with Sec. 12.16(9)(a) of the Revised Municipal Code.
7. Deliveries, Refuse and Recyclable 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 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 10:00 p.m. and 7:00 a.m.

In accordance, plans, recyclables and refuse generated will be dispensed via internal garbage chutes and deposited in a containment area within the underground parking area. If located outdoors, all refuse, recyclables and other waste material shall be screened from view within an approved 4-sided enclosure to match and/or complement the buildings.

8. Window Signage. Any window signage shall not exceed twenty (20) percent of the glazed portion of each window frame and be attached to the interior of the window area. No flashing window signage.

9. Outdoor Dining Area. The outdoor dining area shall be located per the Plan Commission's approved Site Plan and shall be operated in accordance with all applicable State and local regulations.

A. Boundaries. The outdoor dining area shall not extend beyond the approved Site Plan. A sign shall be erected near the exit(s) indicating that "No alcoholic beverages are permitted beyond this point."

B. Monitoring. The outdoor dining area shall be adequately monitored by staff.

10. Signage. Signage shall be permitted in compliance with the West Allis signage ordinance or approved via a variance to the code through the Plan Commission.

11. 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.

12. 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.

13. Pest Control. Exterior pest control shall be contracted on a monthly basis.

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. Lighting. All exterior lighting fixtures and/or lighting visible from public right-of-way shall be indirect and shielded in such a manner that no light splays from the property boundaries. Lighting is subject to a photometric lighting plan being approved by the Plan Commission.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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, then the special use may be terminated.

22. 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.

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Jonathan Ross, or agent for Ogden and Company, Inc.,

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John F. Stibal, Executive Director, Community Development Authority (property owner)

Mailed to applicant on the  
\_\_\_\_\_ day of \_\_\_\_\_, 2017

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City Clerk

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

ZON-R-1102-6-6-17 (Ogden SUP-Element 84)