



City of West Allis

Legislation Text

File #: R-2017-0082, **Version:** 2

Resolution relative to determination of Special Use Permit for a proposed expansion to the outdoor seasonal sales area for the West Allis Home Depot located at 11071 W. National Ave.

WHEREAS, Matt Walsh and Todd Waldo of Greenberg Farrow, on behalf of The Home Depot, USA, Inc., owner, duly filed with the City Clerk an application for a Special Use Permit, pursuant to Sec. 12.43(2) and Sec. 12.16 of the Revised Municipal Code, to expand the existing outdoor seasonal sales area for the West Allis Home Depot located at 11071 W. National Ave.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on April 4, 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. The applicant, Matt Walsh and Todd Waldo of Greenberg Farrow, on behalf of The Home Depot USA, Inc., owns the property and has its corporate offices 2455 Paces Ferry Rd., Atlanta, 30339.
2. The applicant is the owner of said premise located at 11071 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:

Parcel 1 of Certified Survey Map No. 6450.

Tax Key No. 520-9965-035

Said Property being located at 11071 W. National Ave.

3. The applicant is proposing to construct an addition of 9,100 sq. ft. to the existing outdoor seasonal sales area, which is currently 10,400 sq. ft. for a total area of 19,500 sq. ft.
4. The aforesaid premises is zoned C-4 Regional Commercial District under the Zoning Ordinance of the City of West Allis, which permits outdoor sales and display areas as a Special Use pursuant to Sec. 12.43(2) of the Revised Municipal Code.
5. The subject property is part of a block between S. 108 St. and W. Wollmer Rd. on the south side of W. National Ave. The property is bound on the north by W. National Ave. Properties to the north, east and west are developed as commercial uses. Properties to the south are developed as commercial and multi-family residential.

6. 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 Matt Walsh and Todd Waldo of Greenberg Farrow, on behalf of The Home Depot USA, Inc., owner, 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 and Sec. 12.43(2) 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 approval of site, landscaping, screening, and architectural plans approved March 22, 2017, by the City of West Allis Plan Commission. No alteration or modification of the approved plan shall be permitted without approval by the West Allis Plan Commission. This special use is granted upon the following:

- a. Expand the existing seasonal outdoor sales area by 9,100 sq. ft. The entire seasonal outdoor seasonal sales (existing and proposed expansion area) will be constructed using a decorative black wire mesh fence to delineate the limits of the seasonal sales area.
- b. Maintenance of the approved site and landscaping plan.
- c. Submission of an updated as-built site/landscaping plan of the property within 60 days.
- d. Limitation of the seasonal outdoor sales and display area to allow operation from April 1 through July 15 each year.

2. Seasonal Outdoor Sales and Display Area. The seasonal outdoor sales and display area is currently 10,400 square feet, and will be expanded by 9,100 sq. ft. to a total of 19,500 sq. ft. The temporary outdoor sales and display area will be enclosed by a decorative black wire mesh fence to delineate the limits of the seasonal sales area. Operation will be limited from April 1 to July 15 each year and not to exceed the business hours of operation. Materials within this area will include live goods (70%) and bagged mulch and soils (30%).

3. Hours of Operation.

- a. Store and Garden Center areas. Hours of operation will be Monday through Saturday from 6:30 a.m. to 11:00 p.m. and Sunday from 6:30 a.m. to 9:00 p.m.
- b. Seasonal outdoor sales and display area. This is a seasonal/temporary use with limited operations between April 1 to July 15 each year. The hours of use shall be within the store hours of Monday through Saturday 6:30 a.m. to 11:00 p.m. and Sunday from 6:30 a.m. to 9:00 p.m.

4. 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 Inspection and Neighborhood Services and by the

Fire Department.

5. Parking. A total of 462 parking spaces are required for the Home Depot premise. This includes 379 spaces for the store (113,616-sf@ 1:300), 44 spaces for the garden center (22,148-sf@1:500) and 39 spaces for the temporary outdoor seasonal sales area (19,500-sf@1:500).

Off-street parking for 540 parking spaces are provided on site. When in use, the expanded temporary/seasonal outdoor sales and display area will utilize about 75 parking stalls thereby, reducing the total provided number of off-street parking spaces from 540 to 465 parking spaces.

6. Refuse Collection and Deliveries. All refuse pick up 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. Nothing contained herein shall be deemed to be an approval or acceptance by the City of operations in violation of section 7.035 of the West Allis Municipal Code.

7. Paving and Drainage. The grant of this special use is subject to a paving and drainage plan being submitted to and approved by the Department of Building Inspections and Neighborhood Services.

8. 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.

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

10. Monitoring. The area shall be adequately monitored by staff.

11. Window Signage. Window signage shall not exceed 20% of the window area.

12. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light splays from the property boundaries.

13. Sidewalk Repair. The grant of this special use is subject to compliance with Section 2814 of the City's Policy and Procedures Manual relative to that policy as it relates to the replacement and repair to City walkways of damaged or defective (if any) abutting sidewalk.

14. 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.

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. Applicant is 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 applicant's 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. 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.

19. Acknowledgement. The applicant(s) and property owner shall sign an acknowledgment that they have received these terms and conditions and will abide by them.

The undersigned applicant(s) and property owner agree that the grant of the Special Use Permit is conditioned on meeting the terms and conditions of this resolution.

Matt Walsh and/or Todd Waldo of Greenberg Farrow, representing Home Depot, tenant

Home Depot, property owner

Mailed to applicant on the
_____ day of _____, 2017

City Clerk

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

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