



# City of West Allis

## Legislation Text

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**File #:** R-2017-0304, **Version:** 1

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Resolution relative to determination of Special Use Permit for The Peanut Butter & Jelly Deli, a proposed restaurant, to be located at 6125 W. Greenfield Ave.

WHEREAS, Michael Hottinger, d/b/a The Peanut Butter & Jelly Deli, duly filed with the City Clerk an application for a Special Use Permit, pursuant to Sec. 12.16 and Sec. 12.42(2) of the Revised Municipal Code, to establish a restaurant within the existing mixed-use property located at 6125-29 W. Greenfield Ave.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on November 7, 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, Michael Hottinger, d/b/a The Peanut Butter & Jelly Deli, has offices at 1370 S. 74 St., Ste. 104, West Allis, WI 53214, and will lease the tenant space located at 6125 W. Greenfield Ave.
2. The property is owned by Michael Hottinger, of MCH Properties, LLC, who has an office at 1370 S. 74 St., Ste. 104, West Allis, WI 53214.
3. The proposed tenant space is approximately 1,300 sq. ft. and is located within the mixed-use property located at 6125-29 W. Greenfield Ave., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All the land of the owner being located in the Northwest  $\frac{1}{4}$  of Section 2, Township 6 North, Range 21 East, City of West Allis, Milwaukee County, State of Wisconsin, describes as follows:

Beginning at the Northwest corner of Lot 1, Certified Survey Map No. 7997; thence Southerly, 90.00 feet; thence Westerly, 46.00 feet; thence Northerly, 90.00 feet, to the South right-of-way line of West Greenfield Avenue; thence Easterly, 46.00 feet, along the said South right-of-way line, to the Point of Beginning.

Tax Key No. 454-0062-000

Said land being located at 6125-29 W. Greenfield Ave.

4. The applicant proposes to establish a restaurant, which will specialize in classic and gourmet peanut butter and jelly sandwiches, as well as other specialty foods and treats. The deli will offer dine-in, carry-out, delivery and catering options.
5. The aforesaid premises is zoned C-3 Community Commercial District under the Zoning Ordinance of the City of West Allis, which permits mixed uses and restaurants, as a Special Use, pursuant to Sec. 12.16 and Sec. 12.42(2) of the Revised Municipal Code.
6. The subject property is part of a traditional mixed-use commercial and residential district along W. Greenfield Ave., commonly referred to as Six Points. The area is zoned for commercial uses. Adjacent properties to the north, east and west are developed for mixed-use commercial and residential uses. Properties to the south within the block zoned and developed for residential purposes.
7. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Michael Hottinger,

d/b/a The Peanut Butter & Jelly Deli, to establish a restaurant within the existing mixed-use property located at 6125-29 W. Greenfield 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. Site, Landscaping, Screening and Architectural Plans. The grant of this Special Use Permit is subject to and conditioned upon the Site, Landscaping, Screening and Architectural Plans approved on October 25, 2017 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.
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 Neighborhood Services and by the Fire Department.
3. Hours of Operation. The applicant has indicated expected business operations from 7:00 am - 2:30 pm, seven days a week. However, the space may also be utilized after hours to allow for catering and events. The grant of this Special Use Permit will allow the store to be open from 6:00 am - 10:00 pm, seven days a week.
4. Off-Street Parking. A total of twenty-one (21) parking spaces are required for the entire property, including nine (9) for this restaurant use. However, no parking is provided on site.

The property is part of a traditional mixed-use commercial corridor that offers on-street parking and is within 175 ft. of a public parking lot on the corner of S. 62 St. and W. Orchard St. and within 250 ft. of a public parking lot at S. 63 St. and W. Greenfield Ave.

The Common Council has the authority to accept the revised parking provisions, as a condition of the Special Use. With the approval and signed execution of this resolution, the Common Council agrees to allow revised minimum parking requirements, in accordance with section 12.16(9)(a) of the Revised Municipal Code.

5. Signage. Signage shall be in compliance with the City's Signage Ordinance. Any building window signage shall not exceed twenty (20) percent of each window's area. Rope lighting shall not be allowed.
6. 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.
7. Litter. Employees shall inspect the area and immediate vicinity and pick up litter on a daily basis.
8. Public Nuisance. In accordance with Chapter 18 of the Revised Municipal Code, Public Nuisances are prohibited. Public Nuisances include blighted properties due to an accumulation thereon of junk or other unsightly debris. Enforcement and abatement of public nuisances, including revocation of the Special Use Permit, may take place after three (3) or more nuisance activities have occurred at a premise on separate days during a one hundred and eighty (180) day period.
9. Refuse Collection. Refuse collection to be provided by commercial hauler and stored within the building or an enclosure large enough to accommodate all outdoor storage of refuse and recyclable containers and/or compactor, as approved by the Plan Commission.
10. Pest Control. Exterior pest control shall be contracted on a monthly basis.
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 splays from the property boundaries.

14. Noxious Odors, Etc. The use shall not emit foul, offensive, 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. Deliveries and Refuse Pickup. 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. Because there are residents that live within the building and residential neighborhood adjacent to the site, 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. Acknowledgement. That the applicants 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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Michael Hottinger, d/b/a The Peanut Butter & Jelly Deli, tenant

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Michael Hottinger, d/b/a MCH Properties, LLC, property owner

Mailed to applicants on the

\_\_\_\_\_ day of \_\_\_\_\_, 2017

\_\_\_\_\_  
City Clerk

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

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