

Resolution

File Number: R-2014-0133

Final Action: 6/3/2014

Sponsor(s): Safety & Development Committee

Resolution relative to determination of a Special Use Permit for Sunrise Spa, a proposed therapeutic massage and wellness center, to be located at 10827 W. Lincoln Ave.

WHEREAS, Brian Smith on behalf of Shuying Ding d/b/a Sunrise Spa, duly filed with the City Administrative Officer-Clerk/Treasurer an application for a special use permit, pursuant to Sec. 12.43(2), and Sec. 12.16 of the Revised Municipal Code, for the proposed establishment of a therapeutic massage and wellness to be located within a portion of the property at 10827 W. Lincoln Ave.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on June 3, 2014, 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, Brian Smith on behalf of Shuying Ding d/b/a Sunrise Spa, tenant, resides at W3354 Belgium Konler Rd., Belgium, WI 53004. The property owner, Kozlosky Investment LLC, resides at 3937 S. 119 St., Greenfield, WI 53228.

2. The applicant has a valid offer to lease the property at 10827 W. Lincoln Ave., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All the land of the owner being located in the Northeast $\frac{1}{4}$ and Northeast $\frac{1}{4}$ of Section 7, Township 6 North, Range 21 East, City of West Allis, Milwaukee County, Wisconsin, described as follows:

Lot 8, in Block 1 of the Lincoln Lawns subdivision.

Tax Key No. 484-0008-000.

Said land is located at 10827 W. Lincoln Ave.

3. The applicant is proposing to establish a therapeutic massage and wellness center within a multi-tenant building and will offer the following services: Swedish, deep tissue, hand, foot and reflexology. The proposal is for Sunrise Spa to occupy a 1,000 sf lease space previously occupied by a dermatology business. The applicant business has owned and operated massage centers in: Oshkosh, WI, Appleton, WI and Green Bay, WI.

4. The aforesaid premise is zoned C-4 Regional Commercial District under the Zoning Ordinance of the City of West Allis, which permits physical culture and health services as a special use, pursuant to Sec. 12.43(2) and Sec. 12.16 of the Revised Municipal Code.
5. The subject property is located on the southeast corner of W. Lincoln Ave. and W. Flanders St., 200 feet to the west of S. 108 St. Properties to the north, south, east and west are developed and zoned for commercial use.
6. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area as there is off-street parking on the subject property.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Brian Smith on behalf of Shuying Ding d/b/a Sunrise Spa, a proposed therapeutic spa and wellness center, to be located within a portion of the property at 10827 W. Lincoln 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 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 site, landscape, screening and architectural plans approved on May 28, 2014, 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 Zoning and by the Fire Department.
3. Licensing. The business and staff will be licensed by the State of Wisconsin for massage practices. Subject to applicant obtaining all required Local and State of Wisconsin licenses and permits.
4. Off-street Parking. In accordance with Sec. 12.19 of the Revised Municipal Code, eleven (11) parking spaces are required for the property (this total includes the 4 required for the health spa). Five (5) are provided off-street and on site. 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 on the basis that the proposed development should not adversely contribute to traffic volumes or traffic flow in the area as there is off-street parking on the subject property, and public transportation along the commercial corridor.

5. Commercial Business Operations.
 - A. The applicant has proposed business hours of 9 a.m. to 9 p.m. but with the execution of this resolution the Common Council grants day time operations of 7 a.m. to 10 p.m. daily, seven days per week.
 - B. All exterior doors shall be kept closed to prevent sound/noise emissions into the adjacent neighborhood.
 - C. Excessive noise and vibrations shall not emanate from the building.
6. Litter. Employees shall inspect the site and immediate vicinity and pick up litter on a daily basis.
7. Deliveries and Refuse Collection. All Refuse collection to be provided by commercial hauler and stored within a four-sided enclosure large enough for all outdoor storage of refuse and recyclable containers as approved by the Department of Development.
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. Any window signage shall not exceed twenty (20) percent of each window's area.
12. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light splays from the property boundaries.
13. Outdoor storage. No outdoor storage and/or commercial vehicle storage or display is permitted on site without the approval of a site, landscaping and screening plan by the Plan Commission.
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. 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, then the special use may be terminated.

20. Acknowledgement. That the applicants will sign an acknowledgment that they have received these terms and conditions and will abide by them.

The undersigned applicants agree 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.

Property owner, Kozlosky Investments LLC

Shuying Ding, tenant

Mailed to applicants on the
10th day of June, 2014

Monica Schultz
City Clerk

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

ZON-R-955-6-3-14-bjb-Version 2

ADOPTED AS AMENDED 06/03/2014

Monica Schultz
Monica Schultz, City Clerk


APPROVED AS AMENDED 6/10/14

Dan Devine
Dan Devine, Mayor

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 John Kozlosky
Property owner, Kozlosky Investments LLC

Shuying Ding, tenant

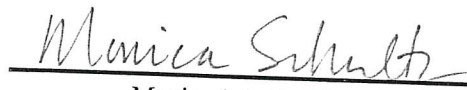
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