



City of West Allis

Resolution: R-2017-0081

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number: R-2017-0081

Sponsor(s): Safety & Development Committee

Final Action:

APR 04 2017

Resolution relative to determination of Special Use Permit for Bobblehedz a proposed tavern to be located at 5630 W. Lincoln Ave.

WHEREAS, David Bickler Jr., d/b/a DDT Bobblehedz, duly filed with the City Clerk an application for a Special Use Permit, pursuant to Sec. 12.41(2) and Sec. 12.16 of the Revised Municipal Code, to reestablish a tavern within the two-story, approximately 2,900 sq. ft. building located at 5630 W. Lincoln 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, David Bickler Jr., d/b/a DDT Bobblehedz, has offices at 5630 W. Lincoln Ave., West Allis, WI 53219.
2. The applicant owns the property at 5630 W. Lincoln Ave., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

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

South 73.00 feet of Lot 23, Block 7 in the McGeoch's Lincoln Avenue Addition subdivision.

Tax Key No. 474-0464-000

Said land is located at 5630 W. Lincoln Ave.

3. The applicant is proposing to re-establish the tavern Bobblehedz, which has been closed for more than one year, within the existing, two-story, approximately 2,900 sq. ft. commercial building .
4. The aforesaid premises is zoned C-2 Neighborhood Commercial District under the Zoning Ordinance of the City of West Allis, which permits taverns as a Special Use, pursuant to Sec. 12.41(2), and Sec. 12.16 of the Revised Municipal Code.
5. The subject property is located at the northeast corner of W. Lincoln Ave. and S. 57 St. Properties to the east, west and south are zoned for commercial uses, and utilized for a mix of both neighborhood commercial and residential development. Property to the north is zoned and utilized for residential development.

6. 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 David Bickler Jr., d/b/a DDT Bobblehedz, to reestablish the two-story, approximately 2,900 sq. ft. tavern known as Bobblehedz, which has been vacant for more than a year, 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. 12.41(2), and 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 Plan Commission recommended denial of the Special Use Permit and site plan improvements at their March 22, 2017 meeting. In accordance with 12.13(12) Appeals, the applicant is appealing the Plan Commission decision to the Common Council. The grant of this Special Use Permit shall be subject to and conditioned upon revised Site, Landscape, Screening and Architectural Plans being submitted to the Department of Development for review and approval, as recommended within the March 22, 2017 Plan Commission Staff Report and/or as amended by the Common Council.

Should the Department of Development and the applicant not come to an agreement on revised plans, the plans shall come back before the West Allis Common Council.

No alteration or modification of the approved plan shall be permitted without approval.

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. Tavern Operations. The tavern will not allow patrons to utilize the rear or side yards of the property, which abut residential development.

A. All exterior doors shall be kept closed to prevent sound/noise emissions into the adjacent neighborhood.

B. Excessive odors from cooking on premises 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.

4. Hours of Operation. The hours of operation will be from 11:00 a.m. to 2:00 a.m., Sunday thru Thursday, and 11:00 a.m. to 2:30 a.m. Friday thru Saturday.
5. Off-Street Parking. A total of twenty (20) parking spaces are required, but none are provided on site. On-street parking is provided on both W. Lincoln Ave. and S. 57 St.

With the approval of this Special Use the Common Council has the authority to change the minimum parking requirements in accordance with Section 12.16(9)(a) of the Revised Municipal Code.

6. 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.

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 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.

7. 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.

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

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

10. Window Signage. Any building window signage shall not exceed twenty (20) percent of each window's area

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

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

Del P. Bickler Jr.
David Bickler Jr., d/b/a DDT Bobblehedz (tenant)

Del P. Bickler Jr.
David Bickler Jr., property owner 5630 W. Lincoln Ave.

Mailed to applicants on the

11 day of April, 2017

Monica Schultz
City Clerk

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

ZON-R-1084-4-4-17

ADOPTED APR 04 2017

APPROVED 4/13/17

Monica Schultz
Monica Schultz, City Clerk

Dan Devine
Dan Devine, Mayor