



City of West Allis

Legislation Text

File #: R-2009-0101, **Version:** 1

Resolution relative to determination of Special Use Permit to establish the Utopic Therapeutic Massage and Skin Care Spa, to be located within a portion of the existing commercial space at 9422 W. National Ave. (Tax Key No. 479-0674-001)

WHEREAS, Teresa Wormsbacher and Jessica Olson, d/b/a Utopic Therapeutic Massage & Skin Care, duly filed with the City Administrative Officer-Clerk/Treasurer an application for a special use permit, pursuant to Sec. 12.41(2) and Sec. 12.16 of the Revised Municipal Code, for the proposed establishment of a massage business to be located at 9422 W. National Ave. within a multi-tenant commercial building; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on April 7, 2009, at 7:00 p.m., in the Common Council Chamber 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, Teresa Wormsbacher and Jessica Olson, d/b/a Utopic Therapeutic Massage & Skin Care, has offices at 9422 W. National Ave., West Allis, WI 53227.
2. The applicant has a valid offer to lease the property at 9422 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 5, Township 6 North, Range 21 East, in the City of West Allis, Milwaukee County, State of Wisconsin, described as follows:

Lots 33 and 34 in Block 3 of the McGeoch Highlands subdivision.

Tax Key No. 479-0674-001.

Said land being located at 9422 W. National Ave.

3. The applicant is proposing to establish a massage business within a multi-tenant commercial building and will offer the following services: massages, facials, body waxing and body scrubs, full body massage.
4. The aforesaid premise is zoned C-2 Neighborhood 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. 12.41(2) and Sec. 12.16 of the Revised Municipal Code.
5. The subject property is located on the north side of W. National Ave. between S. 94 St. and S. 95 St. Properties to the north are developed for residential uses. Properties to the 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.

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

Wormsbacher and Jessica Olson, d/b/a Utopic Therapeutic Massage & Skin Care, to establish a massage business within a multi-tenant commercial building, 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. 12.41(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 Signage Plans. The grant of this special use permit is subject to and conditioned upon the site and landscaping plan approved on March 25, 2009, 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. Massage Business Licensing. The massage staff shall be licensed by the State of Wisconsin for massage practices.
4. Off-Street Parking. The massage business requires a total of 4 parking spaces. A total of 19 parking spaces are required for the overall property (including proposed massage facility) and four (4) spaces will be provided on site.
5. Hours of Operation. The hours of operation are 8:00 a.m. to 9:00 p.m. Seven days per week.
6. Window Signage. Any building window signage shall not exceed twenty (20) percent of each window's area. Any existing signage on site shall be removed.
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. 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.
9. Refuse Collection. All refuse pick-up to be provided by commercial hauler. (All refuse, recyclables and other waste material shall be screened from view with a board-on-board wing wall, or kept inside the building.
10. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light spays from the property boundaries.
11. 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.
12. 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.

13. 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.

14. 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.

15. 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.

Teresa Wormsbacher and Jessica Olson, d/b/a Utopic Therapeutic Massage & Skin Care

Mailed to applicant on the
_____ day of _____, 2009

Assistant City Clerk

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

Div. of Planning

ZON-R-711-4-7-09