



# City of West Allis

## Legislation Text

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**File #:** R-2017-0202, **Version:** 1

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Resolution relative to determination of Special Use Permit for Ebenezer Childcare, to amend the terms of the previously approved Special Use Permit for a daycare facility, to be located at 1126-38 S. 108 St.

WHEREAS, the applicant, Beverly Anderson, d/b/a Ebenezer Childcare Centers, Inc., who duly filed with the City Clerk an application for a Special Use Permit, pursuant to Sec. 12.42(2) and Sec. 12.16 of the Revised Municipal Code, to amend the terms of the previously approved Special Use Permit for a daycare facility for Ebenezer within the first floor of an existing commercial building as well as the neighboring former mixed use property, respectively located at 1126-38 S. 108 St.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on August 1, 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, Beverly Anderson, d/b/a Ebenezer Childcare Centers, Inc., has an office at 1496 S. 29 St., Milwaukee, WI 53214. The property owner is Bustos Asset Management, 19215 SE 34 St. Suite 10632 Camas, WA 98607

2. Ebenezer has a valid offer to lease the 1<sup>st</sup> floor space at 1136-38 S. 108 St., and the property located at 1126-28 S. 108 St. 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 32, Township 7 North, Range 21 East, City of West Allis, Milwaukee County, Wisconsin, described as follows:

North 20.00 feet of Lot 21 and Lots 22 thru 26 in Block 3 of the Greenfield Park Subdivision No. 1.

Said land being located at 1126-28 S. 108 St. and 1136-38 S. 108 St. (Tax Key No.'s 444-0463-001 and 444-0460-001).

3. The 6,628 sq. ft., 1<sup>st</sup> floor of the existing 2-story office building, to be remodeled and occupied by the childcare facility. The 7,254 sq. ft., 2<sup>nd</sup> floor of the building, will continue to be used as office space for the current tenant. The aforesaid premise is zoned C-3/Community Commercial District under the Zoning Ordinance of the City of West Allis, which permits daycare facilities as a special use, pursuant to Sec. 12.16 and Sec. 12.42(2) of the Revised Municipal Code.

4. The applicant will also raze the former Bob's Bait mixed use building located at 1126-28 S. 108 St. and install an outdoor play area as well as alley loaded employee parking.

5. The Common Council approved the Special Use Permit application for Ebenezer Childcare to move into the 2<sup>nd</sup> floor of this building on June 6, 2017, however the owner has since decided that he would like more parking

on the site and thus has re-applied.

6. The subject property is part of an area zoned for commercial and residential uses. Properties to the north, south and west are zoned and developed as commercial uses, properties to the east are zoned and used for low density residential uses.
7. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area. There will be approximately 39 parking stalls on-site.
8. The applicant proposes to establish child daycare with outdoor play area on site. The primary focus of the daycare facility will be to provide care for up to about 88 children, ages 4 weeks to 6 years old.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of , to amend the terms of the previously approved Special Use Permit for a daycare facility for Ebenezer within the first floor of an existing commercial building as well as the neighboring former mixed use property, respectively located at 1126-38 S. 108 St, 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 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, Architectural Signage Plans. The grant of this Special Use Permit is subject to and conditioned upon the site, landscape, screening, and architectural plans approved by the Plan Commission on July 26, 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. Hours of Operation. The hours of operation permitted will be 6:00 a.m. to 8:00 p.m. Monday thru Friday. Weekend hours from 8:30 a.m. to 5:30 p.m.
3. Off-Street Parking. The proposed daycare facility requires 38 parking stalls. Approximately 39 off-street parking stalls are provided on site. The drop-off and pickup area (parking stalls for the daycare users) will be on located within the existing parking lot to the south of the office building.
4. Window Signage. Compliance with West Allis Sign Ordinance.
5. 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.
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. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light splays from the property boundaries. Full-cut off fixtures and or house side shields utilized to minimize light splay.

8. 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.

9. Deliveries and Refuse Pickup. All refuse to be provided by a commercial hauler. All refuse, recyclables and other waste material shall be screened from view within a four-sided enclosure. 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 is a 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.

The Health Department may require exterior pest control be contracted.

10. Litter. Employees shall inspect the area and the immediate vicinity and pick up litter on a daily basis. Refuse, recyclables, and other waste materials will be fully enclosed within a four-sided enclosure large enough to accommodate all outdoor storage of refuse and recyclable containers.

11. Pagers, Intercoms. The use of outdoor pagers, intercoms, or speakers shall not be permitted on site as surrounding land use consists of residential uses.

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. 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.

16. 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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Property owner, Amador S. Bustos, Bustos Asset Management LLC

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Beverly Anderson, d/b/a Ebenezer Childcare Center

Mailed to applicants on the  
\_\_\_\_\_ day of \_\_\_\_\_, 2017

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City Clerk

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

ZON-R-1110-8-1-17