



City of West Allis

Legislation Text

File #: R-2009-0106, **Version:** 3

Resolution relative to determination of Special Use Permit to extend Havana Lounge and Cigar into the abutting commercial space east of their existing location at 9505 W. Greenfield Ave. (Tax Key No. 450-0042-001)

WHEREAS, Brian Blocher, d/b/a Havana Lounge and Cigar, 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, to extend/expand the existing business into an abutting commercial space located at 9501-05-07 W. Greenfield Ave.

WHEREAS, after due notice, a public hearing was held by the Common Council on April 7, 2009, at 7:00 p.m., and 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, Brian Blocher, d/b/a Havana Lounge and Cigar, has offices on site.
2. The applicant owns the subject property and proposes to extend operations of the Cigar Bar (or Tobacco Bar) into the 9501 W. Greenfield Ave. Commercial space. The property is located at 9501-05-07 W. Greenfield Ave., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All the land of the owner being located in the Northeast $\frac{1}{4}$ of Section 5, Township 6 North, Range 21 East, City of West Allis, Milwaukee County, State of Wisconsin, described as follows:

Lots 1, 2 and East 20.00 feet of Lot 3 in Block 4 of the Zingen and Braun's Fair Park Subdivision.

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Said land is located at 9501-05-07 W. Greenfield Ave.

3. The overall building area is approximately 4,000 sq. ft. of which Havana will occupy approximately 3,000 sq. ft.
4. The aforesaid premises is zoned C-2 Neighborhood Commercial District under the Zoning Ordinance of the City of West Allis, which permits lounges and bars as a special use, pursuant to Sec. 12.41(2) and Sec. 12.16 of the Revised Municipal Code. The owner intends to complement the existing retail cigar sale business with a bar/lounge where patrons may be served alcoholic beverages. The owner voluntarily agrees to operate the business as a Cigar Bar (or Tobacco Bar) as herein defined and agrees not to operate the business solely as a tavern. The owner's challenge to this provision shall expressly void the special use, as a special use would not be granted absent these restrictions.
5. Operations include a cigar bar and tavern services. An existing humidor room of approximately 375 square feet shall be provided on premise. A limited food menu and small kitchen will be provided on site. Live music will be performed and a small stage area for performances to be provided (see approved plans).
6. The subject property is part of a block along the south side of W. Greenfield Ave. between S. 92 St. and I-894., which is zoned for commercial purposes. Properties to the north, and west are developed as commercial; properties to the south are developed for residential use. Properties to the east are developed for mixed-use.

7. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area as the site is

currently used as a restaurant.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Brian Blocher, d/b/a Little Havana Lounge and Cigars, to extend/expand operations into the abutting commercial space to the east are 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 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 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. Exterior Doors and Windows. All exterior doors and windows shall be kept closed to prevent noise emissions into the adjacent residential neighborhood.
3. Seating Capacity. The grant of this special use is subject to all applicable fire, life safety, and building codes. Occupant load calculations shall be submitted to the Building Inspections Department and to the West Allis Fire Department for review/approval.
4. Noxious Odors, Etc. The restaurant shall not emit foul, offensive, noisome, noxiously, odorous or disagreeable odors, gases or effluvia into the air. Mechanical systems shall be maintained to efficiently remove noxious odors.
5. Parking. The property shall provide 9 (includes one (1) ADA) parking spaces. In accordance with Sec. 12.19 of the Revised Municipal Code, 13 parking spaces are required on site. The Common Council shall have the authority to change the minimum parking requirement in accordance with Sec. 12.16(9)(a) of the Revised Municipal Code.
6. Hours of Operation. The Lounge/bar will be open in accordance with the closing hours mandated by state law.
7. Litter. Employees shall inspect the site and immediate vicinity and pick up litter on a daily basis.
8. Refuse Collection. Refuse collection to be by private hauler.
9. 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.
10. Monitoring. The property shall be adequately monitored by staff.
11. Window Signage. Any building 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. 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.
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. Cigar Bar (or Tobacco Bar) is defined as a tavern, which generates ten percent (10%) or more of its total annual gross income from the on-site sale of tobacco products, not including any sales from vending machines. Owner agrees to submit its records to the city upon reasonable request to determine if it meets the definition of a Cigar Bar.

16. 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.

17. 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.

18. Acknowledgement. That the applicant signs 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.

(Applicants Name)

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-713-4-7-09