



City of West Allis

Legislation Text

File #: R-2009-0144, **Version:** 2

Resolution relative to determination of Special Use Permit to establish a Dance Studio within a portion of the existing mixed-use building located at 7701 W. Greenfield Ave. submitted by Debra J. Hamilton-Barutha d/b/a Blush II. (Tax Key No. 452-0027-000)

WHEREAS, Debra J. Hamilton-Barutha, lessee, d/b/a Blush II, LLC, duly filed with City Administrative Officer-Clerk/Treasurer an application for a Special Use Permit, pursuant to Sec. 12.16 and Sec. 12.41(2) of the Revised Municipal Code to establish an a dance studio within the existing mixed-use building located at 1409 S. 77 St. and 7701-05 W. Greenfield Ave.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on June 2, 2009, 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 Debra J. Hamilton-Barutha, lessee, d/b/a Blush II, LLC, resides at 3807 S. 18 St. Milwaukee, WI 53221.
2. Debra J. Hamilton-Barutha, lessee, d/b/a Blush II, LLC, will lease said premises located at 1409 S. 77 St. and 7701-05 W. Greenfield Ave., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

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

Lots 1, 2 3 and 4 in Block 2 in the Greenfield Heights subdivision.

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Said Property being located at 1409 S. 77 St. and 7701-05 W. Greenfield Ave.

3. The aforesaid area is zoned C-2 Neighborhood Commercial District under the Zoning Ordinance which permits dance studios as a special use within the existing mixed-use building, pursuant to Sec. 12.16 and Sec. 12.41(2) of the Revised Municipal Code.
4. The applicant is proposing to occupy 1,400 sq. ft. of first-floor space within the mixed-use building to operate a dance studio. This business will provide dance classes for up to 10 people at a time. This mixed-use building has second-floor residential units, one (1) first-floor residential unit and two (2) first-floor commercial units.
5. The subject property is located on the southwest corner of S. 77 St. and W. Greenfield Ave. Properties to the east, west and north are developed as commercial. Properties to the south are developed as residential.
6. The use, value and enjoyment of other property in the surrounding area for permitted uses will not be substantially impaired or diminished by the establishment, maintenance or operation of the special use.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Debra J. Hamilton-Barutha, d/b/a Blush II, LLC, 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 and Architectural Plans. The grant of this Special Use Permit is subject to and conditioned upon the site, landscape and architectural plan submitted to and approved by the West Allis Plan Commission on May 27, 2009. No alteration or modification of the approved plan shall be permitted without approval by the West Allis 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. Parking. Off-street parking spaces for 2 vehicles will be provided. Zoning requires parking for 17 vehicles on site. The Common Council shall have the authority to change the minimum parking requirements in accordance with Sec. 12.16(9)(a) of the Revised Municipal Code.
4. Business Hours. Hours of operation will be daily from 8:00 a.m. to 10:00 p.m.
5. Noise. The use shall not make, produce, allow or cause to be produced any noise which exceeds the noise limitations, as set forth in Ch. 7.035 of the Revised Municipal Code.
6. 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.
7. Pagers, Intercoms. The use of outdoor pagers, intercoms, or speakers shall not be permitted on site as surrounding land use consists of residential uses.
8. Monitoring. The area shall be adequately monitored by staff.
9. 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.
10. Window Signage. Any building window signage shall not exceed twenty percent (20%) of each window's area.
11. 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.
12. 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.
13. 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.

14. 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.

15. 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.

16. 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.

Debra J. Hamilton-Barutha, d/b/a Blush II, LLC

Mailed to applicant on the

_____ day of _____, 2009

Assistant City Clerk

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

ZON-R-718/6-2-09