



City of West Allis

Legislation Text

File #: R-2012-0230, **Version:** 1

Resolution relative to determination of Special Use Permit for Xperience Fitness to be located within the West Allis Towne Centre at 6706 W. Greenfield Ave.

WHEREAS, Jamie Nelson, d/b/a Xperience Fitness, duly filed with the City Administrative Officer-Clerk/Treasurer an application for a special use permit, pursuant to Sec. 12.42(2) and Sec. 12.16 of the Revised Municipal Code, to establish a fitness center within a portion of the Towne Centre Shopping Center; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on December 4, 2012, 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, Jamie Nelson, d/b/a Xperience Fitness has offices at 2323 E. Capitol Dr. Appleton, WI 54911.
2. The applicant has a valid offer to lease space within the Towne Centre Shopping Center located at 6706 W. Greenfield Ave., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All that land of the owner being located in the Southeast $\frac{1}{4}$ and Southwest $\frac{1}{4}$ of Section 34, Township 7 North, Range 21 East, City of West Allis, Milwaukee County, State of Wisconsin describes as follows:

Parcel 3 of the Certified Survey Map No. 4756.

Tax Key No. 439-0001-014

Said land being located at 6700-38 W. Greenfield Ave.

3. The applicant is proposing to establish an approximate 25,000 sq. ft. fitness center in a portion of the Towne Centre Shopping Center.
4. The aforesaid premises is zoned C-3 Community Commercial District under the Zoning Ordinance of the City of West Allis, which permits physical culture and health services, including health clubs, as a special use, pursuant to Sec. 12.42(2) and Sec. 12.16 of the Revised Municipal Code.
5. The subject property is part of a block along the north side of W. Greenfield Ave. between S. 70 St. and S. Six Points Crossing, which is zoned for commercial purposes. Properties to the north and east are developed as commercial and industrial. Properties to the south and west are developed as commercial.
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 Jamie Nelson, d/b/a Xperience Fitness, to establish a fitness center within a portion of the Towne Centre Shopping Center, 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, Signage and Architectural Plans. The grant of this special use permit is subject to and conditioned upon the site, landscape and floor plans approved on November 26, 2012 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. Hours of Operation. The hours of operation will be 24 hours a day, seven days a week.
4. Off-Street Parking. One hundred sixty-seven (167) parking stalls are required for the proposed fitness center and a total of one thousand and seventy seven (1,077) parking spaces are provided for the West Allis Towne Centre tenants.
5. Litter. Employees shall inspect the area and immediate vicinity and pick up litter on a daily basis. Refuse enclosure doors shall remain closed at all times.
6. Window Signage. Any building window signage shall not exceed twenty (20) percent of each window's area.
7. Outdoor Storage. No outdoor storage is permitted on site. No advertising on vehicles (vehicle advertising) shall be permitted on site. Commercial vehicle parking shall be shown as part of an approved site plan.
8. 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.
9. Lighting. The grant of this special use is subject to all outdoor lighting fixtures being orientated downward and/or shielded in such a manner that no light splays from the property boundaries.
10. 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.
11. 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.

12. Miscellaneous.

- A. Applicant is 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 applicant's 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.

13. 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.

14. 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.

15. 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.

Jamie Nelson, d/b/a Xperience Fitness

Brian Blizzard of Ramco Properties (owner)

Mailed to applicant on the
_____ day of _____ 2012

Assistant City Clerk

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

ZON-R-896-12-4-12/bjb