



City of West Allis

Legislation Text

File #: R-2019-0575, **Version:** 1

Resolution relative to determination of Application for a Special Use Permit for Anytime Fitness, a proposed health club, to be located at 2227, 2229, and 2235 S 108 St.

WHEREAS, Lawrence Lupton, d/b/a Lupton Consulting, LLC, duly filed with the City Clerk an application for a Special Use Permit, pursuant to Sec. 12.43(2) and Sec. 12.16 of the Revised Municipal Code, to establish a health club within Lincoln Plaza, at 2227, 2229, and 2235 S 108 St.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on August 6, 2019, 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, , Lawrence Lupton, d/b/a Lupton Consulting, LLC, has a valid offer to lease the space within Lincoln Plaza at 2227, 2229, and 2235 S. S 108 St, 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 6, Township 6 North, Range 21 East, in the City of West Allis, Milwaukee County, State of Wisconsin, described as follows:

Commencing at the Southeast corner of the said Southeast $\frac{1}{4}$; thence Westerly, 90.00 feet, along south line of said Southeast $\frac{1}{4}$; thence Northerly, 55.00 feet, to the North right-of-way line of West Lincoln Avenue and Point of Beginning; thence Westerly, 230.00 feet, along said north line to the east right-of-way line of South 109th Street; thence Northerly, 486.20 feet, along said east line; thence Easterly, 120.00 feet; thence Southerly, 60.00 feet; thence Easterly, 130.00 feet, to the west right-of-way line of South 108th Street; thence Southerly, 376.20 feet, along said west line; thence Southwesterly, 58.35 feet to the Point of Beginning.

Tax Key No. 481-9990-001

Said land is located at 2225-2267 S. 108 St.

2. The applicant is proposing to establish an approximately 5,780 sq. ft., 24-hour health and fitness center in a portion of Lincoln Plaza.

3. The aforesaid premises is zoned C-4 Regional Commercial District under the Zoning Ordinance of the City of West Allis, which permits athletic/health clubs as a special use, pursuant to Sec. 12.43(2), and Sec. 12.16 of the Revised Municipal Code.

4. The subject property is located along the west side of S 108 St, between W Lincoln Ave and W Grant St. All adjacent properties are zoned for commercial purposes. Properties to the north are primarily zoned for residential uses. Properties to the south and east are zoned for commercial and residential uses. Properties to the west are mainly zoned for industrial purposes.

5. 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 submitted by Lawrence Lupton, d/b/a Lupton Consulting, LLC, to establish a health club to be located at 2227, 2229, and 2235 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 Sec. 12.43(2), and Sec. 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, Landscaping, Screening and Architectural Plans approved by the West Allis Plan Commission on July 24, 2019. No alterations or modification to 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. Hours of Operation. The hours of operation will be 24 hours a day, seven days a week.
4. Off-Street Parking. In accordance with Sec. 12.19 of the Revised Municipal Code, a total of 131 parking spaces are required for the property. Off-street parking for 143 parking stalls are provided for Lincoln Plaza tenants.
5. Refuse Collection. All refuse collection to be provided by commercial hauler and stored within a four-sided enclosure large enough for all outdoor storage of refuse and recyclable containers as approved by the Department of Development.

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 are residents that live within the 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 10:00 p.m. and 7:00 a.m.

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. Pagers, Intercoms. The use of outdoor pagers, intercoms, or loud speakers shall not be permitted on site.
8. Monitoring. The area shall be adequately monitored by staff.
9. Window Signage. Any building window signage shall not exceed twenty (20) percent of each window's area
10. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light splays from the property boundaries.
11. 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.
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.

Lawrence Lupton of Anytime Fitness, d/b/a Lupton Consulting, LLC

Lincoln Plaza B, LLC, Property Owner

Mailed to applicants on the _____ day of _____, 2019

City Clerk

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

ZON-R-1195-8-6-19