



City of West Allis

Legislation Text

File #: R-2011-0206, **Version:** 1

Resolution to amend R-2010-0178 relative to the hours of operation for the outdoor deck at Hero's Sports Bar located at 9105 W. Lincoln Ave.

WHEREAS, Joshua Johnson d/b/a International Development, LLC, 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 establish a bar and restaurant with outdoor dining area extension of premise at the existing building located at 9105 W. Lincoln Ave.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on August 3, 2010, at 7:00 p.m., in the Common Council Chamber to consider the application; and,

WHEREAS, after due notice, the Safety and Development Committee conducted a special recess meeting at the September 6, 2011 Common Council meeting relative to complaints possible revocation of the use and unanimously agreed that the outdoor deck should be closed and not used after 10:00 PM.; and,

WHEREAS, the Common Council, having carefully considered the evidence presented at the public hearing and the following pertinent facts noted:

1. The applicant, Joshua Johnson d/b/a International Development, LLC have a mailing address PO Box 611141, New Berlin, WI 53151
2. The applicant has a valid offer to purchase the property located at 9105 W. Lincoln Ave., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All the land of the owner being located in the Northwest $\frac{1}{4}$ of Section 9, Township 6 North, Range 21 East, City of West Allis, Milwaukee County, State of Wisconsin, describes as follows:

Lots 1, 2 and East 40 feet of Lot 3 in Block 1 of the Woodlawn Manor subdivision.

Tax Key No. 487-0088-001

Said land being located at 9105 W. Lincoln Ave.,

3. The applicant is proposing to establish a bar and restaurant and a new outdoor dining/deck area on site. The bar will occupy approximately 2,000 sq. ft. of area within the main floor of the commercial building and the hall seating area will occupy about 2,200 sq. ft. on the main floor. A separate 2,200 sq. ft. of hall/seating area to be used for banquets and other special events, will be located on the lower level of the existing bldg. Remaining floor areas in the building are for kitchen, office and storage areas. The 10,000 sq. ft. building was formerly the Royal Order of the Moose Club a benevolent/non-profit organization and was tax exempt.

4. The aforesaid premises is zoned C-2 Neighborhood Commercial District under the Zoning Ordinance of the

City of West Allis, which permits taverns and cocktail lounges, restaurants and outdoor dining as a special use, pursuant to Sec. 12.41(2) and Sec. 12.16 of the Revised Municipal Code.

5. The subject property is part of a block along the south side of W. Lincoln Ave. between S. 92 St. and S. 91 St., which is zoned for commercial purposes. Properties to the north and west are developed as commercial and multi-family residential. Properties to the south and east are developed as multi-family residential.

6. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area as the former use operated as a banquet facility and club.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Joshua Johnson and Andre Gowens d/b/a International Development, LLC, to establish a bar and restaurant with an outdoor dining area (extension of premise) at 9105 W. Lincoln Ave., 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, architectural, and floor plans being approved, 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. Operations:

- A. All exterior doors shall be kept closed to prevent sound/noise emissions into the adjacent neighborhood.
- B. The outdoor deck will close and not used after 10:00 PM.
- C. Excessive odors from cooking on premises shall be controlled within limits of current technology.
- D. Excessive noise and vibrations shall not emanate from the building.
- E. Employees shall inspect the site and immediate vicinity and pick up litter on a daily basis.
- F. Exterior pest control shall be contracted on a monthly basis.
- G. Outdoor special events to be authorized by Common Council.

4. Hours of Operation.

Deck - The hours of operation for the outdoor area are 10:00 a.m. to 10:00 p.m. The deck shall close at 10:00 p.m. The Safety and Development Committee discussed the issue at a special recess meeting September 6, 2011 and unanimously agreed that the outdoor deck shall be closed and not used after 10:00 p.m.

Bar and Restaurant - The bar and restaurant will be open 7 days a week. Opening hours shall be Monday thru Friday 10:00 a.m., Saturday and Sunday 9:00 a.m. Closing shall be in accordance with state mandated regulations.

5. Off-Street Parking. Fifty-five parking spaces are required for the proposed use, which assumes full use and includes the gross floor area of the entire 10,000 sq. ft. building. A total of 24 on-site parking spaces, including one (1) ADA space shall be provided. The Common Council may modify the off-street parking deficiency.

6. Litter and Monitoring. Employees shall inspect the area and immediate vicinity and pick up litter on a daily basis. Refuse enclosure shall be provided and doors shall remain closed at all times.

7. 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 or as approved by the Department of Development to match the building. 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.

8. Noxious Odors, Etc. The uses on premise shall not emit foul, offensive, noisome, noxious, or disagreeable odors, gases or effluvia into the air. Mechanical systems shall be maintained to efficiently remove noxious odors.

9. Pollution. The uses on premise shall not cause any noxious or unwholesome liquid or substance or any dirt, mud, sand, gravel, or stone refuse or other materials to be deposited upon any public right of way or flow into any sanitary sewer, storm sewer, or water supply system, or onto adjacent properties.

10. Noise. All exterior doors and windows of the tavern will be closed to prevent excess noise from penetrating the adjacent neighborhood. The outdoor area/patio deck will also close at 10pm per the Safety and Development committee's decision at the special recess meeting September 6, 2011.

11. Window Signage. Any building window signage shall not exceed twenty (20) percent of each window's area.

12. 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.

13. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light splays from the property boundaries.

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. 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.

16. 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.

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. 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.

19. 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.

Joshua Johnson, owner
Mailed to applicant on the
_____ day of _____ 2011

Assistant City Clerk

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

ZON-R-835-9-20-11