

## 205 S. Third Street – Indoor Commercial Entertainment CUP

### Background:

Summer Coley, applicant, and Dan Rahfaldt, property owner, are proposing to operate a 24-hour fitness gym at 205 S. Third Street. 205 S. Third Street is zoned Central Business (CB).

### Relevant Information:

The following information has been identified by the City of Watertown as pertinent to this action:

#### 1. Under Section § 550-34B(2)(f)

*(2) Principal land uses permitted as conditional use (per § 550-45B):*

*(a) Clear-cutting.*

*(b) Indoor institutional.*

*(c) Outdoor institutional.*

*(d) Institutional residential.*

*(e) In-vehicle sales or service.*

***(f) Indoor commercial entertainment.***

*(g) Outdoor commercial entertainment.*

*(h) Commercial indoor lodging.*

*(i) Bed-and-breakfast establishments.*

*(j) Group day-care center (nine or more children).[1]*

*[1]Editor's Note: Former Subsection B(2)(k), Boardinghouse, which immediately followed, was repealed 6-19-2018 by Ord. No. 18-4.*

*(k)Central business apartments (greater than 12 dwelling units).*

*[Added 6-1-2021 by Ord. No. 21-24]*

#### 2. Under Section § 550-52H:

*H. Indoor commercial entertainment. Description: Indoor commercial entertainment land uses include all land uses which provide entertainment services entirely within an enclosed building. Such activities often have operating hours which extend significantly later than most other commercial land uses. Examples of such land uses include restaurants, taverns, theaters, health or fitness centers, all forms of training studios (dance, art, martial arts, etc.), small-scale alcoholic beverage production, bowling alleys, arcades, roller rinks, and pool halls.*

##### *(1) Regulations:*

*(a) If located on the same side of the building as abutting residentially zoned property, no customer entrance of any kind shall be permitted within 150 feet, or as far as possible, of a residentially zoned property.*

*(b) Facility shall provide bufferyard with minimum opacity of 0.60 along all borders of the property abutting residentially zoned property (see § 550-99).*

*(2) Parking requirements. One space per every three patron seats or lockers (whichever is greater) or one space per three persons at the maximum capacity of the establishment (whichever is greater).*

## Decision:

Under 2017 Wisconsin Act 67:

62.23 (7) (de) Conditional use permits.

1. In this paragraph:

- a. "Conditional use" means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a city, but does not include a variance.
- b. "Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

2. a. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the city ordinance or those imposed by the city zoning board, the city shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.

- b. The requirements and conditions described under subd. 2. a. must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The city's decision to approve or deny the permit must be supported by substantial evidence.

3. Upon receipt of a conditional use permit application and following publication in the city of a class 2 notice under ch. 985, the city shall hold a public hearing on the application.

4. Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the city may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the city zoning board.

5. If a city denies a person's conditional use permit application, the person may appeal the decision to the circuit court under the procedures contained in par. (e) 10

Criteria	Applicant Provided Substantial Evidence		Opponent Provided Substantial Evidence		PC Finds Standards Met	
If located on the same side of the building as abutting residentially zoned property, no customer entrance of any kind shall be permitted within 150 feet, or as far as possible, of a residentially zoned property	Yes	No	Yes	No	Yes	No

If Plan Commission answers "no" to the last of the questions, above, the CU permit must be denied.

Criteria	Applicant Provided Substantial Evidence		Opponent Provided Substantial Evidence		PC Finds Standards Met	
Facility shall provide bufferyard with minimum opacity of 0.60 along all borders of the property abutting residentially zoned property (see § 550-99).	Yes	No	Yes	No	Yes	No

*If Plan Commission answers “no” to the last of the questions, above, the CU permit must be denied.*

Criteria	Applicant Provided Substantial Evidence		Opponent Provided Substantial Evidence		PC Finds Standards Met	
	Yes	No	Yes	No	Yes	No
One space per every three patron seats or lockers (whichever is greater) or one space per three persons at the maximum capacity of the establishment (whichever is greater).	Yes	No	Yes	No	Yes	No

*If Plan Commission answers “no” to the last of the questions, above, the CU permit must be denied. Otherwise, proceed to the condition of approval.*

### **Options:**

These are the following options, but not limited to, for the Plan Commission based on the information received by the City of Watertown Zoning & Floodplain Administrator:

1. Deny the Conditional Use Permit, based on failure to provide substantial evidence to meet one or more of the regulatory standards.
2. Approve the Conditional Use Permit without conditions, based on successfully providing substantial evidence of regulatory compliance.
3. Approve the Conditional Use Permit with conditions as identified by the Plan Commission.