File Number: R-2013-0231

Final Action: OCT 15 2013

Sponsor(s): Safety & Development Committee

Resolution relative to determination of Special Use Permit for Midcoast Auto, a proposed vehicle repair business, to be located at 1909 S. 74 St.

WHEREAS, Jonathon Ozimek, lessee, d/b/a Midcoast Auto LLC. duly filed with City Administrative Officer-Clerk/Treasurer an application for a Special Use Permit, pursuant to Sec. 12.16 and Sec. 12.45(2) of the Revised Municipal Code to establish an auto repair/service facility within the existing building located at 1909 S. 74 St.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on October 15, 2013, 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 Jonathon Ozimek, d/b/a Midcoast Auto LLC, resides at 3456 N. 93 St. Milwaukee, WI 53219.

2. Jonathon Ozimek, d/b/a Midcoast Auto LLC., will lease said premises located at 1909 S. 74 St., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All the land of the owner located in the Southwest ¼ of Section 3, Township 6 North, Range 21 East, in the City of West Allis, Milwaukee County, State of Wisconsin, more particularly described as follows:

Lots 1, 2 and 3, and North 12.62 feet of Lot 4 in Block 8 of the Linwood subdivision.

TAX KEY NO. 453-0480-000

Said Property being located at 1909 S. 74 St.

3. The aforesaid area is zoned M-1 Manufacturing District under the Zoning Ordinance which permits auto repair as a special use, pursuant to Sec. 12.16 and Sec. 12.45(2) of the Revised Municipal Code.

4. The applicant is proposing to occupy the 9,000 sq. ft. building for auto repair. 6,000 sq. ft. of the building will be used for the actual auto repair operation itself and 3,000 sq. ft. of the building

will be used to store vehicles intended for repair. This business will provide services for general auto repair. There is no plan to do any paint work out of this facility.

5. The subject property is located on the southwest corner of S. 74 St. and the Union Pacific Railroad line. Properties to the west are zoned and developed as residential, properties to the north are zoned and developed as multi-family residential, properties to the east are zoned and developed as manufacturing, properties to the south are zoned and developed as manufacturing and 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. Additionally, any vehicles waiting to be repaired or which already have been repaired will be subject to the outside storage limits indicated on an approved site and landscaping plan.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Jonathon Ozimek, lessee d/b/a Midcoast Auto 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. 12.45(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 September 25, 2013. No alteration or modification of the approved plan shall be permitted without approval by the West Allis Plan Commission. No outdoor storage shall be permitted on site.

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 60 vehicles is required by code. The applicant plans to park all vehicles awaiting repair within a 3,000 sq. ft. section of the building and will not store any vehicles awaiting repair outside 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. Parking/storage of repair vehicles or vehicles awaiting repair is not permitted within City right-of-way.

4. Business Hours. Hours of operation will be Monday through Saturday from 8:00 a.m. to 6:00 p.m. During operation, all doors and windows will be closed, to help control noise pollution.

5. Commercial Business Operations. The exchange of engines or transmissions shall not be

permitted on site. No vehicle sales shall take place on site.

6. Deliveries and Refuse Pickup. Because there is a residential use adjacent to the site, delivery operations and refuse pickup shall not be permitted between 9:00 p.m. to 7:00 a.m. 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.

7. Outside Storage. No outside storage of junk vehicles, vehicle parts or vehicles for sale or lease will be permitted. No vehicular advertising (advertising on vehicles) shall be permitted on site. Only vehicles used to go to and from work shall be permitted on site.

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

9. 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.

10. 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.

11. Pagers, Intercoms. The use of outdoor pagers, intercoms, or speakers shall not be permitted on site as surrounding land use consists of residential uses.

12. Monitoring. The area shall be adequately monitored by staff.

13. 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.

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

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. Acknowledgement. That the applicants sign and 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.

Jonathon Ozimek, d/b/a Midcoast Auto LLC

~~Mark Welden, Viggen Holding LLC (Owner)~~
John West JTW Properties LLC

Mailed to applicant on the

_____day of _____, 2013

Assistant City Clerk

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

ZON-R-930-10-15-13

ADOPTED OCT 15 2013

Paul M. Ziehler, City Admin. Officer, Clerk/Treas.

APPROVED 10/21/13

Dan Devine, Mayor

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_____
Jonathon Ozimek, d/b/a Midcoast Auto LLC

_____
~~Mark Welden, Viggen Holding LLC (Owner)~~
John West, JTW Properties (Owner) Corrected by JLemanske per Mayor Devine on 10/23/13
Dan Devine

Mailed to applicant on the
24th day of October, 2013
Monica Schultz
Assistant City Clerk

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

ZON-R-930-10-15-13

ADOPTED OCT 15 2013
Paul M. Ziehler
Paul M. Ziehler, City Admin. Officer, Clerk/Treas.

APPROVED 10/21/13
Dan Devine
Dan Devine, Mayor