

**CITY OF WEST ALLIS
RESOLUTION R-2021-0781**

**RESOLUTION RELATIVE TO DETERMINATION OF AN APPLICATION FOR A
SPECIAL USE PERMIT FOR MAGIC AUTO REPAIRS, A PROPOSED
AUTOMOBILE REPAIR SHOP TO BE LOCATED AT 1230 S. 60TH STREET**

WHEREAS, Domingo Herrera d/b/a Magic Auto Repairs LLC., filed with the City Clerk an application for a Special Use Permit, pursuant to Sec. 12.16 and Sec. 12.42(2) of the Revised Municipal Code, to establish an automobile repair shop at 1230 S. 60th St.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on December 14, 2021, 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 during the public hearing and the following pertinent facts noted:

1. The applicant, Domingo Herrera, will operate the proposed use at 1230 S. 60th St. as a tenant. The subject property is described as follows:

All the land of the owner being located in the Southwest $\frac{1}{4}$ of Section 35, Township 7 North, Range 21 East, City of West Allis, Milwaukee County, Wisconsin, described as follows:

Lots 2, 3 and 4 in Block 4 of the Re-Subdivision of the South $\frac{1}{2}$ of Block 4 of Brady's Subdivision.

TAX KEY NO: 438-0283-001

Said property being located at 1230 S. 60th St.

2. The aforesaid premise is zoned C-3, Community Commercial District under the Zoning Ordinance, which permits auto repair as a Special Use, pursuant to Sec. 12.16 and Sec. 12.42(2) of the Revised Municipal Code.

3. The applicant is proposing to establish an automobile repair shop within the entirety of the existing building.

4. The subject property at 1230 S. 60th St. is located on the northeast corner of S. 60th St. and W. Madison St. Properties to the north are utilized/developed as low density residential and zoned commercial. Properties to the east are utilized/developed and zoned low density residential. Properties to the west and south are utilized/developed and zoned commercial.

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 of Domingo Herrera, d/b/a Magic Auto Repairs LLC., for a Special Use Permit to establish an automobile repair shop located at 1230 S. 60th St. 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. 12.42(2) of the Revised Municipal Code, so as to permit the issuance of a Special Use Permit as therein provided.

NOW THEREFORE, 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, Landscaping and Architectural Plan submitted to and approved by the West Allis Plan Commission on December 1, 2021. No alteration or modification of 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 Neighborhood Services and by the Fire Department.

3. Parking. A total of 15 spaces will be provided on site, including 1 ADA stall.

a) Off-street parking of vehicles shall be arranged in accordance with the parking and storage areas as approved by Plan Commission on the approved site plan (inclusive of access aisles being maintained). Changes subject to Plan Commission approval.

b) At least three (3) of the total off-street parking spaces shall be provided for customer drop-off and pick-up parking on site.

c) No service or repair work may be conducted within the public right-of-way, or outside of the building/approved repair bay areas.

d) Parking/staging of unlicensed vehicles is not permitted within City right-of-way.

4. Business Operations. The grant of this special use is subject to and conditioned upon the following business operations:

a) Hours. Common Council grants the hours of operation Monday through Friday 8:00am to 5:00pm and Saturday by appointment (between 8am and 5pm). Closed Sunday.

b) Services offered. The applicants summary of typical services include general auto repair for passenger vehicles such as oil changes, tire rotation, tire installation, tire balancing, brakes, battery installations, muffler repair. No painting or body work will be conducted.

c) Exterior gates. Exterior gates shall be closed after business hours.

d) Openings. The operator is expected to close exterior overhead doors or building openings for services that may result in prolonged noise levels to the surrounding neighborhood area.

5. Outdoor Storage. Outdoor storage of equipment, parts, junk vehicles, vehicle parts or vehicles for sale or lease shall not be permitted. Long term vehicle storage, staging or parking (in excess of 14 days) shall not be permitted. Any outdoor storage indicated on plans shall not exceed fence height.

6. Lighting. Exterior lighting on premise shall require prior approval of a lighting plan by the Planning and Zoning Office.

a) All outdoor lighting fixtures shall be directed downwards and shielded in such a manner that

no light spays from the property boundaries.

b) Exterior lighting should be presented in a lighting plan which identifies all exterior lighting features, either mounted on the building or freestanding, along with dispersion pattern, intensity of light and cut-off shielding that reflects away from the street. Light distribution should not spill over onto adjacent properties.

c) "Rope" lighting or similar LED lighting shall not be used in any manner that results in visible or exposed bulbs.

7. 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. To prevent excess noise from penetrating into the adjacent neighborhood, the operator is expected to close exterior overhead doors or openings for services that may result in prolonged noise levels.

8. 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. and 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.

9. Noxious Odors, Etc. The business 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.

10. 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, unless permitted in accordance with the municipal code.

11. Signage. Signage shall be in accordance with the City signage ordinance. Any window signage shall not exceed 20% of the glazed portion of each window area. Windows signage shall be situated on the internal side of the window.

12. 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.

13. Expiration of Special Use Permit. Any Special Use approved by the Common Council shall lapse and become null and void 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 60 days of the expiration of the special use permit;

D. The extension, if granted, shall be valid for a period of 6 months. If no building permit has been issued and construction has not commenced within 6 months from and after the extension has been granted, the special use shall become null and void.

14. 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.

15. 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.

16. 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.

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17. 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.

Domingo Herrera
Domingo Herrera, d/b/a Magic Auto Repairs LLC.

Mailed to applicant on the

22 day of 12, 2021

City Clerk

SECTION 1: **ADOPTION** "R-2021-0781" of the City Of West Allis
Municipal Resolutions is hereby *added* as follows:

ADOPTION

R-2021-0781(*Added*)

PASSED AND ADOPTED BY THE CITY OF WEST ALLIS COUNCIL DECEMBER 14, 2021.

	AYE	NAY	ABSENT	ABSTAIN
Ald. Angelito Tenorio	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Ald. Vince Vitale	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Ald. Tracy Stefanski	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Ald. Marty Weigel	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Ald. Suzzette Grisham	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Ald. Danna Kuehn	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Ald. Thomas Lajsic	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Ald. Dan Roadt	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Ald. Rosalie Reinke	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Ald. Kevin Haass	<u>X</u>	<u> </u>	<u> </u>	<u> </u>

Attest

Presiding Officer



Rebecca Grill, City Clerk, City Of
West Allis



Dan Devine, Mayor City Of West Allis

