



City of West Allis

Legislation Text

File #: R-2012-0121, **Version:** 1

Resolution relative to determination of Special Use Permit for E and R Auto Repair, a proposed auto repair business to be located at 1910 S. 73 St.

WHEREAS, Ed Ruiz and Ricky Ruiz, d/b/a E and R Auto Repair, duly filed with the 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 at 1910 S. 73 St.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on June 19, 2012 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 Ed Ruiz and Ricky Ruiz, d/b/a E and R Auto Repair will have offices at 1910 S. 73 St., West Allis, WI 53219.
2. Ed Ruiz and Ricky Ruiz, d/b/a E and R Auto Repair, will lease space located at 1910 S. 73 St., West Allis, Milwaukee County, Wisconsin from Anthony Kunkel, property owner, more particularly described as follows:

All the land of the owner being located in the Southwest $\frac{1}{4}$ of Section 3, Township 6 North, Range 21 East, in the City of West Allis, Milwaukee County, State of Wisconsin, described as follows:

Lots 1 and 2, Block 3 in the Lauderdale No. 2 subdivision.

TAX KEY NO. 476-0287-000

Said property being located at: 1910 S. 73 St.

3. The aforesaid area is zoned M-1 Manufacturing District under the Zoning Ordinance, which permits Automobile repairs (including automobile body shops) 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 provide passenger vehicle repairs. Business operations will include: engine, transmission, brakes, suspension, heat, AC and muffler/exhaust repair. Repair work hours will be 8:00 a.m. to 6:00 p.m., Monday thru Friday and 8:00 a.m. to 2:00 p.m. on Saturday.

The property is 6,430 square feet in area (0.147 acres) and the building is 1,680 square feet. A total of 11 parking spaces are required and 8 are provided on site with an additional 12 parking spaces available across the street from the subject property on a paved surface within the railroad right-of-way. This detached parking area within railroad right-of-way is privately maintained and leased by the property owner.

5. The subject property is located on the northwest corner of S. 73 St. and W. Burnham St. Abutting properties to the east and south are developed as residential uses but zoned for manufacturing. Properties to the west and north are zoned and developed for manufacturing uses.

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. Any vehicles waiting to be repaired or which already have been repaired will be subject to the outside storage limits to be indicated on the approved site and landscaping plan. Parking, storage and/or display of repair vehicles and/or vehicles awaiting repair and/or vehicles for sale are not permitted within City right-of-way. Vehicle sales are not permitted on site. Employee vehicles (not repair vehicles) may park in the detached parking area leased from the railroad, along the commercial (manufacturing zoned) frontages of W. Burnham St., S. 73 St., but not within the existing alley located to the east of the subject property.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application of Ed Ruiz and Ricky Ruiz, d/b/a E and R Auto Repair, 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 approval of the site, landscaping, screening, and architectural plans approved at the May 23, 2012 meeting 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. No outdoor storage shall be permitted on site. Parking, storage and/or display of repair vehicles and/or vehicles awaiting repair and/or vehicles for sale are not permitted within City right-of-way. Vehicle sales are not permitted on site. Employee vehicles (not repair vehicles) may park in the detached parking area leased from the railroad, along the commercial (manufacturing zoned) frontages of W. Burnham St., S. 73 St., but not within the alley to the east of the subject property.

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. A total of eleven (11) parking spaces are required. Eight (8) parking spaces are provided on site with an additional twelve (12) parking spaces available across the street from the subject property on a paved surface within the railroad right-of-way. This detached parking area within railroad right-of-way is privately maintained and leased by the property owner. Parking, storage and/or display of repair vehicles and/or vehicles awaiting repair and/or vehicles for sale are not permitted within City right-of-way. Vehicle sales are not permitted on site.

Employee vehicles (not repair vehicles) may park in the detached parking area leased from the railroad, along the commercial (manufacturing zoned) frontages of W. Burnham St., S. 73 St., but not within the existing alley

located to the east of the subject property.

4. Business Hours. Repair work hours of operation will be 8:00 a.m. to 6:00 p.m., Monday thru Friday and 8:00 a.m. to 2:00 p.m. on Saturday. General office and administration hours will be from 7:00 a.m. to 7:00 p.m., seven days a week.
5. Commercial Business Operations. No commercial trucks, buses, trailers or similar large non-passenger vehicles are permitted to be stored or serviced on the property. Business operations include auto repair within/inside the building and not within the public right-of-way.
6. Deliveries and Refuse Pickup. Because there are residential uses 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 inside the building or 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 will not be permitted. No vehicular advertising (advertising on vehicles) shall be permitted on site.
8. 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.
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. Overhead doors to repair bays shall be closed during business operations to reduce noise emissions into the surrounding area.
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 and shall be affixed to the interior of the window.
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 applicant signs an acknowledgment that he has received these terms and conditions and will abide by them.

The undersigned applicant and property owner agree 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.

Ed Ruiz or Ricky Ruiz, d/b/a E and R Auto Repair, applicant

Anthony Kunkel, property owner

Mailed to applicant on the

_____ day of _____, 2012

Assistant City Clerk

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

ZON-R-874-6-19-12