



City of West Allis

Legislation Text

File #: R-2014-0084, **Version:** 1

Resolution relative to determination of a Special Use Permit amendment by Elite Environmental, a wastewater treatment facility, to locate its business within a portion of the existing building at 356-60 S. Curtis Rd.

WHEREAS, the subject property is currently being used for a wastewater treatment facility under Special Use Resolution R-2004-0119, adopted April 5, 2004 by the West Allis Common Council. A portion of the property is used by Central Wastewater Treatment (CWT) as previously approved under Special Use Resolution R-2004-0119 in 2004. A second wastewater treatment business, Elite Environmental, has also recently applied for an occupancy permit and has requested an amendment to the current Special Use Resolution.

WHEREAS, Kevin Crosby d/b/a Elite Environmental, an existing wastewater treatment business, seeks to occupy a portion of the property at 356-60 S. Curtis Rd. The purpose of this resolution is to give consideration to various amendments being requested by the applicant, which if adopted, will amend and replace the existing Special Use Resolution (R-2004-0119). The applicant has duly filed with the City Administrative Officer, Clerk/Treasurer an application for a Special Use Permit, pursuant to Sec. 12.45(2) and Sec. 12.16 of the Revised Municipal Code, to establish a wastewater treatment facility within a portion of a building located at 356-60 S. Curtis Rd.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on April 15, 2014, at 7:00 p.m., in the Common Council Chamber 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, Kevin Crosby d/b/a Elite Environmental Corp., and John Sherff d/b/a Central Wastewater Treatment (CWT) currently lease space on premise. The property is owned by the Accetta Family LTD Partnership with offices at 11910 W. Ripley Ave. Wauwatosa, WI 53226.
2. The applicant currently leases said premises located at 356-360 S. Curtis Rd., West Allis, Milwaukee County, Wisconsin, more particularly described as follows, to-wit:

All the land of the owner being located in the Northwest $\frac{1}{4}$ of Section 31, Township 7 North, Range 21 East, City of West Allis, Milwaukee County, Wisconsin, described as follows:

Parcel 2 of the Certified Survey Map No. 6480.

Tax Key Number: 413-9999-038

Said land being located at 356-60 S. Curtis Rd.

3. The applicant currently operates a wastewater treatment facility on site and is requesting to amend the existing special use resolution. Both tenants treat wastewater from local industrial clients throughout the metro

area. The treatment of the wastewater is regulated to limits determined by the EPA prior to discharge to the sanitary sewer. The discharged water is monitored continually (24 hours, 7 days per week) by MMSD to ensure that it meets the EPA treatment limits. Any remaining solids left after the treatment process are non-hazardous and can be sent to a landfill. The entire treatment process is highly automated with controls to monitor tank levels, flow rates, chemical additions and a system-failure automated stop.

The whole space within the facility that is used for wastewater unloading, holding, treatment and discharge is contained for accidental spills per Wisconsin DNR regulations.

The current special use limits business operations. Each truck will take about 1 hour for testing and unloading (deliveries by appointment).

Elite Environmental has requested the following amendments to (R-2004-0119) the existing special use:

- a. Per R-2004-0119, the current limit of 6 trucks per day. This limitation is requested to be struck from the amended resolution.
 - b. Per R-2004-0119, the current hours of operation are Monday through Friday from 7:00 a.m. to 5:00 p.m. and Saturday from 7:00 a.m. to 1:00 p.m. The requested change in the amended resolution is for all business operations being limited between the hours of 4 a.m. to 11 p.m., Monday through Saturday, and Sunday from 4 a.m. to 4 p.m.
 - c. Per R-2004-0119, the current MMSD discharge permit is for a maximum release to sanitary sewer of 22,000 gallons per day at a maximum flow rate of 70 gallons per minute. It is requested that the daily capacity of 22,000 gallons per day be struck from the amended resolution. All uses on site would be regulated at a maximum flow rate of 70 gallons per minute.
4. The aforesaid premises is zoned M-1 Manufacturing District under the Zoning Ordinance of the City of West Allis, which permits wastewater treatment facilities pursuant to Sec. 12.45(2) of the Revised Municipal Code.
 5. The subject property is located on the east side of S. Curtis Rd. between W. Theodore Trecker Way and W. Dixon St. Properties to the north, south, east and west are developed as manufacturing uses.
 6. The City has received complaints from an abutting neighbor (WE Energies) relative to odors. The City is working with all parties and property owners to determine the source of the issue and work toward abatement. The use, value and enjoyment of other property in the surrounding area for permitted uses shall 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 John Sherff, d/b/a Central Wastewater Treatment of Wisconsin 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 Secs. 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 a revised site, landscape, and architectural plans being approved by the City of West Allis Plan Commission. 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 Zoning and by the Fire Department.
3. Paving and Drainage. The grant of this special use is subject to a paving and drainage plan being submitted to and approved by the Department of Building Inspections and Zoning.
4. Parking. A total of 27 parking stalls for the property, including 2 ADA stalls, are required per the Zoning Code. Twenty-seven parking stalls will be provided on site including two (2) ADA stalls. Business, employee and customer vehicles shall be parked on site and not in the public right of way.
5. Business Operations. With the approval and signed execution of this resolution, the Common Council agrees to the following:
 - a. Trucking. All deliveries to be by scheduled appointment only.
 - b. Hours of operation on property. All business operations being limited between the hours of 4 a.m. to 11 p.m., Monday through Saturday, and Sunday from 4 a.m. to 4 p.m.
 - c. Discharge. All uses on site shall be limited to a flow rate of up to 70 gallons per minute and subject to applicable Milwaukee Metropolitan Sewerage District (MMSD) and Wisconsin Department of Natural Resources (WDNR) regulations.
6. Noxious Odors, Etc. The use 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.
7. Pollution. The use 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.
8. 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.
9. Litter. Employees shall inspect the area and immediate vicinity and pick up litter on a daily basis. Refuse, recyclables and other waste materials will be fully enclosed within an approved structure.
10. Refuse Collection. Refuse collection will be done by a commercial hauler. (All refuse, recyclables and other waste material shall be screened from view within a four-sided enclosure to match the building).
11. Pagers/Intercoms. The use of outdoor pagers, intercoms or loudspeakers shall not be permitted on site.
12. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light spays

from the property boundaries.

13. Master Signage Plans. A master sign plan for the property and its tenants shall be prepared and submitted to the Plan Commission for approval. Any non-conforming signage shall be removed.

14. Public Nuisance. In accordance with Chapter 18 of the Revised Municipal Code, Public Nuisances are prohibited. Public Nuisances include odors, noise, junk which contribute to blighted properties. Enforcement and abatement of public nuisances, including revocation of the Special Use Permit, may take place after three (3) or more nuisance activities have occurred at a premise on separate days during a one hundred and eighty (180) day period.

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. 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.

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 applicants sign 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.

Accetta Family LTD Partnership, property owner

John Sherff d/b/a Central Wastewater Treatment

Kevin Crosby d/b/a Elite Environmental Corporation

Mailed to applicant on the
____ day of _____, 2014

Assistant City Clerk

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

ZON-R-951-4-15-14-bjb