



City of West Allis

Legislation Text

File #: R-2016-0182, **Version:** 2

Resolution relative to determination of Special Use Permit for Endless Autosport, an existing automobile accessory/part sales store, proposing to establish a vehicle repair and service business, to be located within an existing building at 10923 W. Mitchell St.

WHEREAS, AJ Konkel d/b/a Endless Autosport, duly filed with the City Clerk an application for a Special Use Permit, pursuant to Sec. 12.16 and Sec. 12.45(2) of the Revised Municipal Code of the City of West Allis, for a proposed vehicle repair and vehicle service shop in an approximate 7,800 sq. ft. portion of 10923 W. Mitchell St. The subject property features an existing multi-tenant industrial building located address range 10923-11111 W. Mitchell St.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on July 5, 2016, 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, AJ Konkel d/b/a Endless Autosport has offices on site at 10923 W. Mitchell St., West Allis, WI 53214. The property owner is Mitchell Partners, LLC with offices at 11800 W. Ripley Ave. Milwaukee, WI 53226.
2. The applicant, Endless Autosport, currently leases approximately 7,800 sq. ft. of tenant space within the existing multi-tenant building. The property is located at 10923-11111 W. Mitchell St., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

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

Commencing at the Southwest corner of Parcel 2, Certified Survey Map No. 5372; thence Westerly, 20.00 feet along the North line of Wisconsin Electric Power Company parcel to the Point of Beginning; thence continue Westerly, 900.54 feet along the said North line; thence Northerly, 426.47 feet to the South right-of-way line of West Mitchell Street; thence Easterly, 900.61 feet; thence Southerly, 412.64 feet to the Point of Beginning.

Said land being located at 10923-11111 W. Mitchell St. (Tax Key No. 448-9983-002).

3. Endless Autosport currently has an occupancy permit (issued in 2015) for retail sales of auto parts and accessories (a permitted use). The business specializes in retail sales of aftermarket parts and accessories for import and domestic automobiles with a focus on high-end luxury and exotic vehicles. Whether performance or cosmetic based, they supply quality parts and consultation within the industry. The purpose of this special use is to consider a special use request to expand their business services to include vehicle repair and vehicle services. As part of this request for special use, Endless Autosport proposes to utilize and operate a dynamometer (“dyno”), an instrument for measuring mechanical power output.

4. The property is zoned M-1/Manufacturing which permits vehicle repair and services as a special use.
5. Since about March of 2016, the business operations were observed changed to include general repair work, performance upgrades (installation of aftermarket parts and accessories) and vehicle testing and tuning services (dynamometer/"dyno" service). Concurrent with the change in businesses operations (specifically use of the dynamometer), the City started to receive noise complaints from another tenant on the same property. Furthermore, there have also been at least three other complaints of noise that were forwarded to the City from nearby property owners at the west end of Mitchell St.
6. On April 26, 2016 Planning Division and the Health Department arranged for a meeting on site and with the cooperation of the Endless Autosport business, the Health Department took some sound level readings during operation of the dynamometer. Testing was conducted both on site and from W. Mitchell St. Based on this meeting the Planning and Health Department recommend the following:

A third party sound audit service is recommended to evaluate sound levels of the dynamometer "dyno" service.

Close the garage doors during operations. An existing muffler system has helped control exterior noise somewhat, but the business does not always close the doors when working. Noise within the interior of the complex will continue to be an issue if not managed with proper sound insulation measures.

To prevent further noise from leaving the tenant space, a sound insulation "quiet room or booth" is recommended. Such systems would be placed over the dyno machine/area to further control noise on site.
7. Endless Autosport has since discontinued use of the dynamometer while they await special use consideration.
8. The Endless Autosport business is currently located within a 7,800-sf tenant space on the east end of a multi-tenant industrial building. Overhead doors are located on the north and south sides of the tenant space/building to provide access to the vehicle repair/service and dyno area. Parking spaces for customers, employees, repair/service vehicles and ADA are provided off-street/on site.
9. The aforesaid area is zoned M-1 Manufacturing District under the Zoning Ordinance of the City of West Allis, which permits vehicle repair and vehicle service as a special use, pursuant to Sec. 12.16 and Sec. 12.45 (2) of the Revised Municipal Code.
10. The subject 8.6-acre property is located on the south side of W. Mitchell St., and west of S. 108 St. Properties located to the north, south, east and west are zoned and developed for commercial and manufacturing use.
11. With proper sound control measures implemented, the use, value and enjoyment of other property in the surrounding area 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 AJ Konkell d/b/a Endless Autosport, to establish a vehicle repair and vehicle service use, 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 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, Screening, Architectural. The grant of this Special Use Permit is subject to and conditioned upon a site, screening, landscaping and architectural plan approved June 22, 2016 by the West Allis Plan Commission. No alterations or modification of the approved plan shall be permitted without approval by the West Allis Plan Commission.

2. Noise. With the grant of this special use, Common Council requires the following noise/sound control measures being implemented prior to operations of the dynamometer services on site:

A third party sound audit service is recommended to evaluate sound levels of the dynamometer “dyno” service and is subject to the review by the Health Department.

Exterior doors and windows of the use shall be closed during the dynamometer “dyno” operations to prevent excess noise from penetrating into the adjacent neighborhood.

To prevent noise from leaving the tenant space and the property, a sound insulation “quiet room or sound control measures” shall be installed. Such systems would be placed in the operational area of the dynamometer to mitigate sound emissions.

These sound insulation measures shall be evaluated as part of the third party sound audit and approved by the Health Department.

3. 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. The grant of this special use is subject to and conditioned upon compliance with all applicable building and fire codes.

4. Off-street Parking and loading. The proposed use requires a total of 38 off-street parking stalls. This is based on an estimated 3,000-sf vehicle service/repair area 3,000-sf indoor storage area and remaining 1,800-sf of office and retail area. The overall property is required to provide 126 parking spaces. A total of 130 marked parking stalls currently exist on site, but additional paved area exists behind the building.

All parking including (service/repair vehicles, employee and customer parking and storage) shall be conducted on site and not within City right-of-way. All storage and deliveries shall be conducted on site and not within public right of way.

Customer vehicles shall not be stored outside overnight.

5. Hours of Operation. With the grant of this special use, the dealership may be open weekdays between the hours of 8:00 a.m. and 6:00 p.m. The applicant has indicated that the hours of operation on weekends will be by appointment only. For the purposes of this special use, Common Council grants the hours of operation to be between 9:00 am and 6:00 pm on weekends.

6. Window Signage. Window signage shall not exceed 20% of the glazed portion of each window frame. Windows signage shall be situated on the internal side of the window.
7. 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.
8. Deliveries and Refuse Pickup. All refuse to be provided by a commercial hauler. All refuse, recyclables and other waste material shall be screened from view within a four-sided enclosure or as approved by the Department of Development to match the building. All tenants of the property will be required to abide by the City of West Allis health/public nuisance rules per Chapter 7 of the Revised Municipal Code.
9. Noxious Odors, Etc. The use shall not emit foul, offensive, noisome, noxious, odorous or disagreeable odors, gases or effluvia into the air. Mechanical systems shall be maintained to efficiently remove noxious odors.
10. 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.
11. Pagers/Intercoms. The use of outdoor pagers, intercoms or loudspeakers shall not be permitted on site.
12. Litter and Monitoring. 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.
13. Sidewalk Repair. The grant of this special use is subject to compliance with Section 2814 of the City's Policy and Procedures Manual relative to that policy as it relates to the replacement and repair to City walkways of damaged or defective (if any) abutting sidewalk.
14. Outdoor Lighting. All outdoor lighting fixtures shall be shielded in such a manner that no light spills from the property boundaries. 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.
15. Expiration of Special Use Permit. The grant of this special use shall become null and void within one year of the date thereof, unless construction is under way or the current owner possesses a valid building permit under which construction is commenced, within sixty (60) days of the date thereof and which shall not be renewed unless construction has commenced and is being diligently pursued. 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 supplying written explanation for extension of time;
 - B. A timeline/schedule for obtaining necessary permits, state and municipal approvals and 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 six months. If no building permit has been issued and construction has not commenced within six months from the date 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 applicant signs 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.

AJ Konkel, Endless Autosports tenant

Mitchell Partners LLC, etal c/o Central Asset Management, property owner

Mailed to applicant on the
_____ day of _____, 2016

City Clerk

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

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